



Law Society
of Scotland

Consultation response

CP21/1: Financial Conduct Authority - Restricting
CMC charges for financial products and services
claims

April 2021



Introduction

The Law Society of Scotland is the professional body for over 12,000 Scottish solicitors.

We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

Our Consumer Law Sub-committee welcomes the opportunity to respond to the consultation on *CP21/1: Financial Conduct Authority - Restricting CMC charges for financial products and services claims*.¹ We have the following comments to put forward for consideration.

Response to questions

Q1: Do you agree with the design of the proposed cap?

Yes.

Q2: Do you agree with the scope of the proposed cap?

Yes.

Q3: Do you agree that agreements which breach the cap should be unenforceable to the extent of the breach and that simple interest at 8% should apply?

Yes. A sanction is required to promote compliance.

Q4: Do you agree with a 3-month implementation period for the cap?

Yes, provided this is a reasonable period which will allow CMCs to make changes to their systems and processes.

Q5: Do you agree that applying the proposed cap to pre-existing contracts provides an appropriate degree of protection for consumers against excessive charges?

Yes.

¹ [CP21/1: Restricting CMC charges for financial services and products claims | FCA](#)

Q6: Do you agree that requiring the proposed further disclosures will improve consumer awareness of the cost of using a CMC?

Yes, provided the disclosures are prominent and clear.

Q7: Do you agree that isolating the statement about claiming direct, and requiring a separate declaration from the consumer will help to improve customer awareness of the option to claim without a CMC?

Yes.

Q8: Do you agree with the 3-month implementation period for our proposed enhanced disclosure requirements?

Yes, provided this is a reasonable period which will allow CMCs to make changes to their systems and processes.

Q9: Do you agree with the proposed minor amendments to CMCOB and PERG?

Yes.

Q10: Do you agree with the proposed updates to CONRED to bring the relevant provisions in line with the Financial Services and Markets Act 2000 (Claims Management Activity) Order?

Yes.

Q11: Do you agree with the proposal to modify the rule, which clarifies the obligation for CMCs to also ask customers about historic bankruptcies, IVAs, debt relief orders or similar arrangements?

Yes.

Q12: Do you agree with the proposal which places an expectation on CMCs to tell their customers when they are undertaking 'unregulated' claims management activities for which customers cannot expect access to any statutory ombudsman or statutory compensation scheme? 38 CP21/1 Annex 1 Financial Conduct Authority Restricting CMC charges for financial products and services claims

Yes. This will promote transparency.

Q13: Do you agree with our estimate of the costs and benefits of our proposed interventions?

No comment.

Q14: Do you agree with our assessment of the impacts of our proposals on the protected groups? Are there any others we should consider?

No comment.



For further information, please contact:

Policy Team

Law Society of Scotland

policy@lawscot.org.uk