

Applications relating to uninsured law firms (Rule 3.4)

5 July 2021

Status

This guidance is to help you understand how we make decisions on applications received for payments out of the SRA Compensation Fund (the Fund).

Who is this guidance for?

This guidance is for all applicants seeking a payment from the Fund and for those assisting applicants with their application.

Purpose of this guidance

To explain when a payment may be made from the Fund where a regulated entity was practising without compulsory professional indemnity insurance.

Uninsured loss

If you suffer a loss which should have been covered by a firm's compulsory indemnity insurance, but it turns out that the firm had failed to have such insurance in place, you can apply to the Fund.

Unlike other applications, you do not need to show there was dishonesty or a failure to account for money.

To apply under this rule, you need to show:

- you have suffered a loss
- the loss was caused by something for which the firm (or their employee or manager) has civil liability, and
- the firm should have had insurance in accordance with our professional indemnity insurance rules, but they did not.

Additional points to note

- We will not make a payment where the firm had insurance but the insurer does not pay out, for example because an insurer refuses to pay under the policy terms or its exclusions or where a claim is made to an insurer which subsequently becomes insolvent.
- We will only consider a payment where the type of loss falls under our minimum terms and conditions of insurance which we require



firms to hold. For example, no payment will be made in relation to a firm's trading liabilities or employee claims as they are excluded in the minimum terms and conditions of insurance.

- The other rules of the Fund apply to this type of application so we will therefore consider, for example, the time limit, whether the [applicant contributed to their loss](https://upgrade.sra.org.uk/consumers/compensation-fund/resources/applicants-conduct/) and whether there is [another way to recover the loss](https://upgrade.sra.org.uk/consumers/compensation-fund/resources/exhausting-remedies/).

Example

A solicitor negligently failed to obtain a local search when advising on a house purchase. As a result of this failure the client's house was found to be worth much less than they paid for it due to a proposed new road bypass. The client tries to recover the money from the solicitor and asks for the firm's professional indemnity insurance details. It comes to light that the firm did not have in place professional indemnity insurance and the solicitor does not have the funds to compensate the client. The client applies to the Fund which makes a payment.

Further guidance

Read more information about our [Compensation Fund](https://upgrade.sra.org.uk/consumers/compensation-fund/).

Further help

If you require further assistance, please contact our [Contact Centre](https://upgrade.sra.org.uk/contactus/).