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16 September 2020

Ms Megan Pitt
Chief Executive Officer
Legal Services Council
Level 3, 19 O'Connell Street
Sydney NSW 2000

Dear Megan

Changes to the interest rate payable on fidelity fund claims

Thank you for your letter dated 19 August 2020, inviting feedback from the Victorian Legal Services Board and Commissioner's ("VLSBC's") on the Legal Services Council's ("LSC's") consultation paper on the interest rate payable on fidelity fund claims. Our response to the questions posed in the consultation paper are as follows.

- 1. Is it appropriate to reduce the interest rate payable on fidelity fund claims?**
In our view, yes. As the LSC notes in its consultation paper, the current rate of 5% does not reflect the rate of return which can be achieved by investing the corpus of the fund, and decreases the fund's overall sustainability.
- 2. Should the interest rate payable on fidelity fund claims be determined by reference to a formula based on the RBA cash rate?**
Yes. We consider that a formula based on the RBA cash rate would more closely represent the rate of return claimants might otherwise have expected to achieve if their claim had been paid immediately and, therefore, is a better reflection of the underlying policy rationale for paying interest on fidelity fund claims.
- 3. If the interest rate payable on fidelity fund claims is determined by reference to a formula based on the RBA cash rate, is the RBA cash rate plus 1% appropriate?**
We agree that a formula based on the RBA cash rate plus 1% is appropriate. However, we note that the drafting of this option in the consultation paper is ambiguous: it is unclear whether "one percentage point" is referring to 1% (one hundred basis points) or 0.01% (one basis point).
- 4. Should the interest rate payable on fidelity fund claims be determined by reference to a formula based on CPI?**
In our view, no. The CPI is a general measure of price inflation for the household sector, and is used to adjust pensions, benefits, etc. so that their real value is maintained over time. This situation is to be distinguished from the interest paid on a fidelity fund claim, which provides for some return on funds foregone by a consumer between the time that they make a claim on the fidelity fund and receive payment.

Thank you again for the opportunity to contribute to this consultation process. If you require any further information, please contact [REDACTED]

Yours sincerely

[REDACTED]
Fiona McLeay
Board CEO & Commissioner

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