

Monday, 7 September 2020

By email: submissions@legalservicescouncil.org.au

Megan Pitt
CEO, Legal Services Council
Commissioner for Uniform Legal Services Regulation
Level 3, 19 O'Connell Street
SYDNEY NSW 2000

Dear Ms Pitt

Consultation Paper on the interest rate payable on fidelity fund claims

I write to provide feedback on the interest rate payable on fidelity fund claims made under the Legal Profession Uniform Law.

While it is reasonable for the Legal Services Council to consider that special circumstances exist such as to make a new interest rate rule pursuant to section 233 of the Legal Profession Uniform Law, we suggest a different approach compared that proposed by the consultation paper.

Our suggested approach recognises that fidelity funds should be effectively managed over a long-term. An approach that relies on the cash rate at any given time, in contrast, takes an 'on the day' approach. An approach that recognises that a fidelity fund is managed over a longer-term may serve to reduce volatility in the interest rate and better reflects the value to consumers of the loss incurred.

As such, we recommend that the approach should be in accordance with section 57 of the *Insurance Contracts Act 1984* and Regulation 38 of the Insurance Contracts Regulations 2017 which sets the interest rate payable on insurance claims. This rate is calculated by way of reference to the 10-year treasury bond yield at the end of the half-financial year, plus 3%. This approach is already adopted by forums such as the Australian Financial Complaints Authority.

Yours faithfully,
CONSUMER ACTION LAW CENTRE



Gerard Brody
Chief Executive Officer