

# **£2 million maximum payment and exceptional circumstances (Rule 9)**

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 the £2 million maximum payment that we will normally make from the Fund.
- To explain how we will consider a larger payment than £2 million in exceptional circumstances in the public interest.
- To explain what constitutes a single application when applying the maximum payment rule.

## **Maximum payment - £2 million**

Unless we are satisfied that there are exceptional circumstances in the public interest that justify a higher sum, the maximum total payment that may be made for a single application is £2 million. This includes any costs or interest that may be payable.

## **What are exceptional circumstances in the public interest?**

Exceptional circumstances will be those that are not experienced routinely: however, by their nature, they cannot be comprehensively defined.

Factors that we will consider when deciding whether to make a payment of more than £2 million will include:

- The impact of the loss on an applicant. We are more likely to find exceptional circumstances where the loss has a potentially catastrophic impact on an applicant's quality of life. We will look at:
  - the likely duration of such an impact



- the ability or otherwise of the applicant to make up losses by other means.
- The extent to which the wider public trust and confidence in legal services provided by regulated person is impacted by the loss.
- Even if we decide that exceptional circumstances apply, we will not necessarily award the full amount of the application but the amount that we consider is justified in the public interest.

## Example cases for the £2 million limit

### Example 1

The applicant is injured in a road accident and sustains serious life changing injuries. Their solicitor makes a personal injury claim on his behalf and negotiates a settlement of £2.4m including a substantial sum for future care, which will be needed for the rest of the applicant's life. The solicitor then absconds with the damages.

Given the long lasting and harmful impact of the solicitor's action on the applicant, and the potential impact on confidence and trust in the administration of justice in this case, we decide that there are exceptional circumstances justifying the limit being exceeded and pay the full £2.4m.

### Example 2

An estate worth £2.3m is stolen by the solicitor handling the probate. The executor of the estate applies to the Fund. The two main beneficiaries are already financially comfortable (they own their own homes and have reasonable incomes). We decide that there are no exceptional circumstances in the public interest such that we will exercise our discretion to exceed the limit. We therefore pay £2m to the estate.

## What is a single application?

The £2 million limit applies to losses arising from a single event or set of connected underlying circumstances. Examples of how this may apply are set out below

Scenario	Fund's approach
Mr and Mrs A sell their jointly owned property for £2.4 m which their solicitor steals.	While each may make a separate application for their loss of the sale proceeds, the applications are connected and arise from a single property transaction and a single event. We therefore pay £2m jointly to them.



B, C and D are beneficiaries of H's Estate and are entitled to one third each when they reach 25 years old.

A solicitor is appointed as the sole executor of the Estate which realises £8m. £2.6m is paid to B when they reach 25.

We may receive applications from each beneficiary of the estate. We will however, class this as one loss to the estate arising from one event. Payment to the estate will be limited to £2m (unless there are exceptional circumstances).

The remaining £5.4m is stolen by the solicitor. C & D make applications to the Fund separately.

E sells their portfolio of four properties to four separate buyers for £400,000, £500,000, £700,000 and £900,000 respectively.

We consider it is one application by E because it is a single act of theft by the solicitor.

The sales were not connected but completed in the same week. The solicitor stole the whole £2.5m from the client account relating to E's matters.

E receives £2 million.

## Further help

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