

**A Report on the Consultation Exercise and
Proposals for the Way Forward issued by the
Attorney General's Chambers in 1996**

RECOMMENDATION 28 : **There should be a statutory fidelity fund to protect consumers from the dishonesty of solicitors or their employees, which should be financed by a levy on solicitors.**
(para. 7.24 of the Consultation Paper)

Written submissions : support 17, qualified support 4, reject 5

The opponents of this recommendation were the Law Society and solicitors. The Law Society commented as follows –

“The Society is aware of the potential for loss sustained by clients as a result of the fraud of a sole practitioner or partner which would not be covered by the existing Professional Indemnity Scheme and Hong Kong Solicitors Indemnity Fund. However the incidence of such claims has been minimal over the last 10 years. The relatively recent creation of statutory powers to investigate and inspect a solicitor's practice will, it is hoped, provide guidance and the opportunity for preventative action if the need arises.

The bureaucracy and administrative cost inherent in the establishment of a fidelity fund are considered to be disproportionate to the potential claims risk. The Law Society believes that a greater benefit is likely to be achieved from the expansion of the existing Professional Indemnity Scheme which has operated successfully for some years with minimal administrative burden upon the Society. The options available in this respect are already being reviewed.”

Public opinion survey. A majority (67.3%) of respondents consider that it is necessary to establish a fidelity fund. Nearly all of them (98.0%) believe that this could be used to protect clients. Less than twenty percent (18.5%) of respondents think that a fidelity fund is unnecessary. Among them, nearly half (48.2%) consider the utility of the fund to be very limited and some thirty-six percent (36.1%) worry that the legal costs would increase.

Reported views: support 3, qualified support 1, reject 1

Comment. There is clear public support for some system of protecting consumers from the dishonesty of solicitors or their employees. The preparation of a legislative scheme is a complex matter and will take some time.

Pronosal. The Administration will introduce legislation to implement this recommendation.