

THE LOOK OUT



PROFESSIONAL RISKS NEWS

SRA PROFESSIONAL INDEMNITY INSURANCE REFORM PROPOSALS

The Solicitors Regulation Authority (SRA) has recently published its latest proposals on reforming Professional Indemnity Insurance (PII) requirements for law firms. The proposals are by far the most far reaching since moving to an open insurance market in 2000. I discuss the changes proposed and share with you our views and the views expressed by others within the industry on these proposed reforms. The SRA are currently reviewing their whole regulatory approach with the aim of making it simpler with a strong focus on high standards. They believe such an approach to PII can reduce costs for the consumer. Assessment of the current PII requirements is one of the area's the SRA are currently reviewing.

IN THIS ISSUE...

Jim Brindley identifies the proposals set out by the SRA in regards to Professional Indemnity Insurance, the reasons for change and the impact it may have on law firms.

Why the change?

The SRA feel that the current PII minimum terms are too rigid, too costly for smaller firms, and acts as a barrier to new firms entering the market and thus reducing overall competition. Current run off arrangements in place make it difficult for law firms to exit the market. The SRA have undertaken a review of claims data over a ten-year period between 2004 to 2014 and from the evidence extracted they believe the current approach to PII requires change - hence the new PII proposals.

Proposed changes

- Reducing the single claim limit to £500,000 and £1,000,000 for firms undertaking conveyancing work.
- Removing the minimum terms cover for financial institutions, including corporate and large commercial clients.
- Amending the six year run off cover provisions to a capped overall limit of £1,500,000, and £3,000,000 for firms who have undertaken conveyancing work.

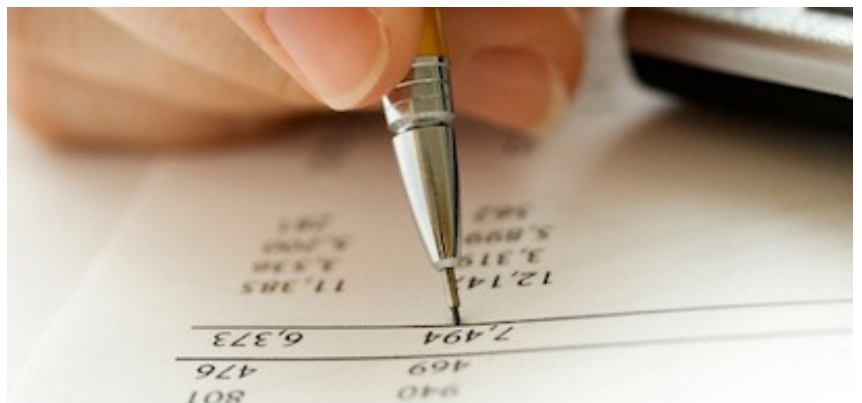


The **consultation** on the proposed changes is open until the 15th June 2018 and the SRA welcome additional support and evidence to make a final decision.

Will these changes have the impact the SRA are hoping for?

Law firms currently enjoy the widest PII cover available to the professions market; the scope of cover offered goes beyond what many other regulators require from their professionals. The cover requirements demanded of participating insurers has, in the past caused issues, particularly during times of economic stress, i.e. between 2008 and 2010. Many insurers have withdrawn from offering cover after only two or three years of writing business, citing a number of factors; the scope of cover being one, the other being the automatic six year run off cover. We do understand why this consultation has taken place, but with what has been proposed, will it make much difference to the pricing of PII for law firms?

Many experts within both the legal sector and insurance industry feel the proposed changes are flawed. Some have suggested that the data may be unreliable and the changes could have little impact on premiums and will result in less protection for the consumer and law firm.



Why is this?

- The claims data compiled from the report suggests that up to 98% of claims fall below £500,000. The report then later suggests the figure is closer to £600,000! What is the figure for 2017? It therefore suggest that the £500,000 limit may be too low.
- The report does not include insurers who have withdrawn from the market, potentially missing up to 25% of additional claims data.
- PII policies are written on a claim made basis, it would be unwise for the majority of law firms to suddenly reduce their overall limit given the undertakings, which they may already have given to clients/institutions for previous work.
- The requirement for additional top up insurance above the proposed new minimum limits will result in restrictive cover. Top up insurers do not always specifically follow the primary minimum terms cover and such policies include stricter wordings such as fraud and misrepresentation.
- If 98% of claims settled are below £500,000 then it does not follow that premiums will reduce. Insurer's biggest exposure is the lower limit, not the current limits. Yes, the cost may reduce but by how much?
- Firms who operate a client account are at higher risk from cyber-crime. Firms could have significant sums in the client account and regularly transfer large sums of money. We anticipate a limit of £1,000,000 would not be sufficient for the majority of conveyancers and other law firms who operate a client account. Will top up insurers readily provide cyber-crime cover? Will they put additional clauses on the policy even if they are willing to provide cover?
- Are the minimum terms really causing an issue with new firms entering the market? It was reported that there was a 30% increase in new firms in 2016 with the SRA reporting 745 new firms in the last 12 months to February 2018.

What next?

Any variations should be carefully considered with sufficient evidence to back up such changes. Yes, the changes could reduce PII costs for some law firms but is the potential saving large enough to warrant such a reduction in cover and the risk of under insurance to the law firm, and subsequently the consumer? ***In my view, these changes will not.***

Once cover is reduced, it will be extremely difficult to go back to the wider cover the profession currently enjoys. My advice to the SRA and the profession - proceed with extreme caution.

If you are looking to review your insurance arrangements for 2018 and are interested in finding how TLO Risk Services can assist your firm, or wish to discuss the above matters, please contact **Jim Brindley**

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Jim Brindley
 Account Executive
 0121 2121 9090
james.brindley@tlorisk.com