

# MARKET UPDATE

LEGAL PRACTICES GROUP BULLETIN FEBRUARY 2019

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## Professional Indemnity Insurance

We are now in the 20<sup>th</sup> year since the demise of the Solicitors Indemnity Fund ("SIF") in 2000.

The Professional Indemnity Insurance (PII) market for solicitors in England and Wales has experienced many issues during these last 20 years with compulsory indemnity limits increasing, the arrival and departure of unrated insurers, the abolishment of the Assigned Risks Pool, the Minimum Terms and Conditions being reviewed and amended, recession driven claims and more recently the introduction of claims arising from cyber related fraud.



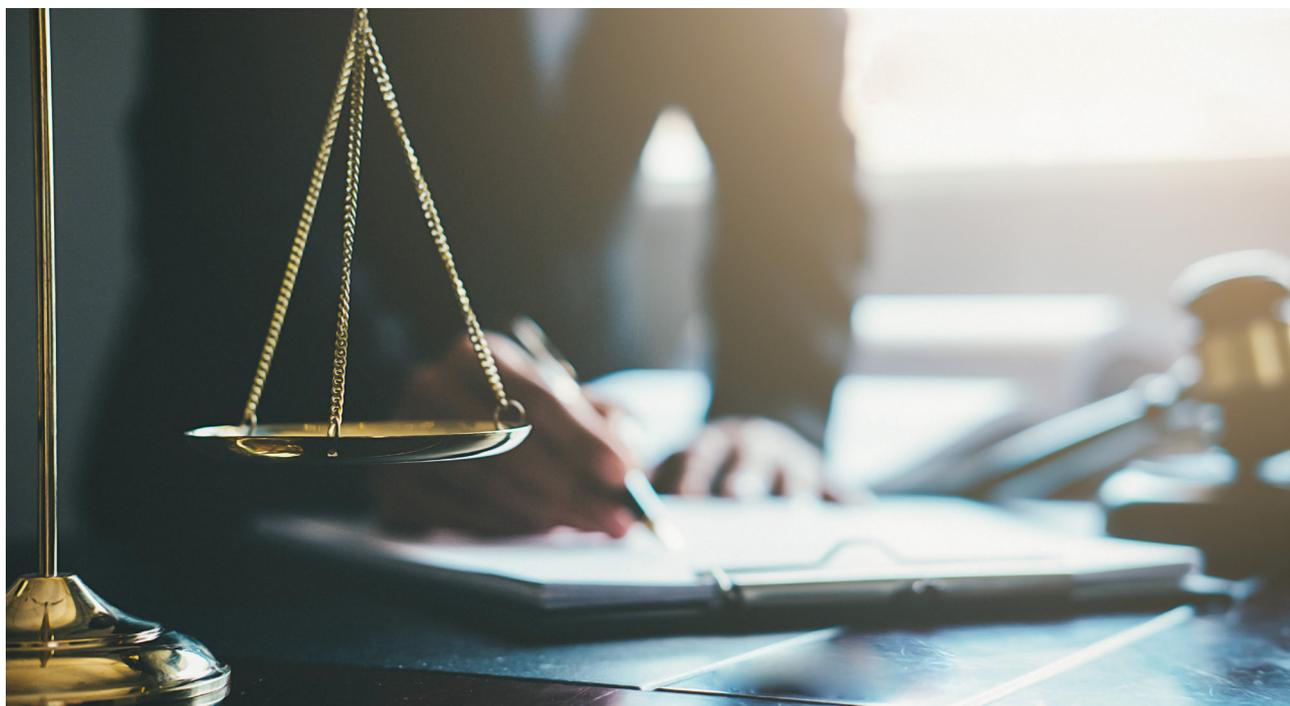
All of these issues have affected the cost and availability of PII in one way or the other.

The regulatory demands and a forever increasing culture of compliance have been challenging to say the least for the majority of the profession. This burden of course is here to stay and will no doubt become tougher on firms as times goes on.

The cost of PII has generally fluctuated for firms during the last 20 years. We should remember that although the profession is significantly larger than it was in 1999 (the last year of the SIF); it is estimated that the total insurance premium for the compulsory limit of cover is at least 10% less than the final years' contribution to the SIF.

Importantly it must be remembered that the level of cover provided by SIF was only £1M as opposed to £2M or £3M for an incorporated practice so the profession as a whole is paying less and for at least twice the amount of compulsory cover.

Most would say therefore that the current commercial (open market) PII arrangements should be regarded as



a success and a more than sustainable solution to protect consumers.

I would entirely agree that the current regime is a success but we must also be wary that PII claims are a way of life for the profession and nothing should therefore be taken for granted.

The availability of suitable insurance for the profession is under constant scrutiny by the Regulator(s) and those responsible for the arrangement of PII for their firm need to be ever vigilant. Understanding the options for their firm is in my view extremely important and should be continually under review.

## WAS 2018 ANY DIFFERENT TO PREVIOUS YEARS AND WHAT SHOULD FIRMS EXPECT IN 2019?

The October 2018 PII renewal season had many of the similar characteristics as so many we have experienced in the past but with some twists and turns.

We saw the ongoing desire from insurers to increase rates, the always present and understandable desire from firms wishing

to pay less, an abundance of insurer choice for the majority of firms and the continued vigilance from insurers around their risk selection process.

Competition between insurers for better performing firms was clear and it is crucial that those firms continue to take full advantage of this.

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### Too many firms still use the services of insurance brokers who are clearly not specialists in the field of Solicitors PII.

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Did they all do so? I think not. In my personal opinion far too many firms do not take full advantage of competitive PII market conditions.

For some reason, many firms seem to simply ignore all of the options available to them. In particular I do not understand why far too many firms still use the services of insurance brokers who are clearly not specialists in the field of Solicitors PII.

You would not pay a visit to your local General Practitioner for open heart surgery would you? You would surely prefer to be under the care of an experienced specialist heart surgeon.

Why therefore do so many firms ask insurance brokers with no or very little expertise in PII to arrange the most important insurance policy for their business. It doesn't make any sense to me. As a specialist I am biased of course!

We always advise our clients not to dabble in areas of the law in which they do not specialise. Straightforward and logical advice of course so surely firms should engage with an expert broker to represent their interests when it comes to their PII requirements.

How does a firm know which insurer is the right fit for them? Engaging with a specialist broker goes a long way to helping in this regard.

Specialist PII brokers are however a rare breed. I have said many times during the last few years that firms should think very

carefully before they retain the services of a broker to represent them.

In reality, there are only a handful of brokers who have the infrastructure, resource and expertise to say they are genuine specialists in the field of Solicitors PII.

## WE HAVE DIRECT ACCESS TO OVER 16 INSURERS REGISTERED WITH THE SRA. VERY FEW INSURANCE BROKERS CAN BOAST DIRECT ACCESS TO SUCH AN ARRAY OF INSURERS

Enabling our clients to make a well informed decision on the insurer that meets their needs is our mantra.

Different insurers have different risk selection criteria. There is no one insurer that ticks all the boxes for every firm. Seeking the right advice on what and who is best for your firm is of paramount importance.

### So what was the story of 2018 in the Solicitors PII Market.

Many firms would have seen stability in the rates charged by their existing insurer. Many long established insurers however looked to secure an increase

in rates but due to competitive trading conditions struggled to achieve meaningful increases. Rates for excess layers were generally under scrutiny and many firms will have seen the premiums required for higher limits of Indemnity increase.

Some insurers decided to simply let some firms go although most insurers rightly fought hard to maintain their good and profitable business.

The number of insurers writing Solicitors PII has never been greater. This wide and ranging choice for the majority of firms is therefore clear for all to see. As already stated, the secret however is for firms to seek the right advice from specialist and well positioned brokers.

## ARE WE HEADING INTO A HARD MARKET DURING 2019?

The answer to this question is “probably yes”. I would prefer to say “a tougher more challenging market” rather than a hard market but this may just be wishful thinking.

It is certainly true that insurers are generally seeking rate increases and it is of course true that the Lloyds Performance Review during 2018 will lead to some SRA participating insurers

increasing rates and some excess layer insurers reducing their involvement on Solicitors PII programmes. Insurers committed to excess layer participation will we expect look to increase rates.

A number of SRA participating insurers have stated recently that rate reductions will not be available in 2019.

I have no doubt therefore that the majority of firms will face an increase in PII rates at their renewal in 2019.

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So what can firms do to avoid problems with this PII renewal this year? As already mentioned, although many would say “you would say that!” we would strongly recommend that you engage with genuine specialists.

Please return your completed proposal form for PII as soon as possible. Negotiations with insurers generally take longer during tougher trading conditions.

Avoiding last minute decisions and problems with just a few days before the expiry of your current policy is an



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JLT's Legal Practices Group, a leader in professional indemnity insurance, is one of the most experienced and largest specialist teams in the UK, with over 40 legal insurance specialists. Headquartered in London with nine offices across the UK, JLT's Legal Practices Group represents over 1,300 firms ranging from sole practitioners and firms in the high street to larger city and international practices with a global footprint.

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absolute must. This can be avoided if you apply and engage with your advisers in good time.

We still see far too many firms leaving their PII decision to the last few days (even on the last day) before expiry. This may have worked in the past and provided you with a favourable outcome but we have doubts this approach will be of benefit to you in 2019.

Our advice to firms is very much based around an approach of strategic planning. It is all about you fully understanding the options your firm has and then planning well in advance.

Prepare a "professional" looking and detailed renewal submission. Answer all questions on the proposal form accurately and where appropriate provide more details.

Do not hesitate to provide us with details on how the firm manages risk and please provide us with details if your firm has experienced claims.

What the firm has done or is doing to avoid recurrence is really useful during the engagement process with insurers. Demonstrating you are a firm that takes risk management seriously is a key consideration for insurers when deciding the rates to apply to your firm and indeed whether they even offer you terms.

To ensure a successful renewal this year, we urge firms to agree a strategy with their broker supported with a sensible timetable.

Whatever you do- DON'T LEAVE IT TOO LATE! ENGAGE EARLY.

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