



Solicitors' Professional Indemnity Insurance

Market Update and the Impact of Covid-19

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June 2020

Setting the scene – hardest PII market since SIF

- Hardest PII market we have seen since the move from SIF to open market
- Lloyd's review in 2018 was the catalyst for change
- Solicitors PII market start to harden in April 2019 and has continued
- Both primary and top-up markets affected
- Capacity and appetite for solicitors' PII has reduced
- Claims activity is an issue – particularly failed investments schemes and buyer funded developments
- Potential claims activity and financial fallout arising from Covid-19 a concern for insurers

Renewal 1 April 2020 – The Result

- Covid-19 was not a barrier to business
- Primary £2m and £3m
 - Rates increased
 - Still sufficient 'A' rated capacity
 - Limited appetite for new business
- Excess layers
 - Rates increased
 - Limited capacity in the market
 - Underwriters introduced their own questionnaire
- Limited 18 month deals

Renewal 1 October 2020 – the forecast

- Primary £2m & 3m
 - Expect further rate increases
 - Capacity could be an issue
 - Appetite for new business will be reduced
- 18 Month deals
 - Limited and affordability will be an issue
- Covid-19 Impact
 - There will be new questions in proposal forms
 - Forecasting reduced gross fees unlikely to achieve premium relief
 - Solvency and potential for unpaid run-off cover will be a concern

Covid-19 – what insurers will want to know

- Remote working arrangements
- Risk management initiatives
- Business levels
- Financial position
- Future outlook

5-Point Action Plan to prepare for renewal

1. Talk to your broker early
2. Agree a timeline
3. Take time and care with your proposal form
4. Review your budget for PII
5. Consider all available finance options

Beware:

- Reducing your limit of indemnity
- Increasing your self-insured excess
- Relying on the Extended Policy Period
- Leaving it too late



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TRENDS IN PROFESSIONAL NEGLIGENCE CLAIMS AGAINST SOLICITORS AND PRACTICAL TIPS ON HOW TO AVOID THEM

JUNE 2020
CLARE HUGHES-WILLIAMS – PARTNER



Current Trends



Buyer Funded Developments

- Key features
- Acting for vendors or purchasers
- Multiple problems for solicitors

Multiple Dwelling Relief

- What is it?
- Why are there so many claims?
- Possible defences

Cyber Fraud for Property Lawyers



The Future



TRENDS IN PROFESSIONAL NEGLIGENCE CLAIMS AGAINST SOLICITORS AND PRACTICAL TIPS ON HOW TO AVOID THEM

JUNE 2020
CATRIN DAVIES – PARTNER



Professional Negligence Claims arising from Litigation

- Mis-managed/under-settled litigation
- The effect of the loss of opportunity approach to quantum
- Covid 19 issues affecting litigation



Mis-managed/ under-settled litigation

- Claims arising from litigation are not as common as property claims
- They tend to be high value claims and expensive in terms of defence costs
- They often involve personal injury claims involving brain injuries or ones that have settled too early when the diagnosis is unclear
- VWF claims are coming to an end and are replaced with NIHL and holiday sickness claims

Loss of Opportunity

- The Court will assess what might have happened in the underlying claim if there had been no breach of duty
- These claims should not be conducted as a trial within a trial
- These claims allow Claimants to recover damages even where the lost opportunity is assessed at less than 50%. There has to be more than a fanciful chance of success

Covid-19 Issues affecting Litigation

- Ensure court arrangements are clear - virtual/in person/which platform is being used
- Ensure electronic bundles are prepared properly and give yourself enough time
- Agree extensions to directions by up to 56 days but ensure new dates are diarised/ become signatories to the personal injury protocol
- Remember that you **cannot** extend the time for the filing and serving of Defences by 56 days
- If signatures are required on documents such as witness statements then ensure that this can be achieved
- Participate in remote mediations and try not to delay
- Deal with your opponent respectfully



