

Controversial proposal to reduce SRA Minimum Cover is kicked onto the back-burner

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In March 2018 we reported that the Solicitors Regulation Authority (SRA) had published its consultation paper, “*Protecting the users of legal services: balancing cost and access to legal services*”, which outlined the SRA’s proposals on reforming the Solicitors Minimum Terms & Conditions (MTCs) and the Compensation Fund. The SRA’s stated aim of the Consultation was to:

- Ensure the needs of those who deserve protection are met and ensure the longer term sustainability of the Compensation Fund;
- Reduce the cost of PI insurance, especially for those firms working in low risk areas in the hope that the savings will be passed on to consumers of legal services;
- Reduce the costs of run-off cover to make it easier for firms to close; and
- Remove barriers for new firms entering the market so as to improve access to legal services.

To meet those aims the Consultation proposed the following changes to the MTCs:

- Reducing the claims limit to £500,000 for all firms apart from claims for conveyancing services;
- A higher limit (£1,000,000) for conveyancing;
- Flexibility around who the cover should protect;
- Changes to run-off by introducing a cap of £3,000,000 for conveyancing firms and £1,500,000 for all other firms; and
- Changes to defence costs arrangements to enable more flexibility for firms and insurers.

The proposals were not very well received in the PI market with them being described as “fundamentally flawed” and by Howdens as “nonsensical” and “lunacy”. The Law Society and many other professions in the market were heavily critical of the consultation and of the claims data that the SRA had used to reach their conclusions.

SRA Decision

The SRA announced on 11 December 2018 that it has put reform of the professional indemnity market on the back-burner as changes to the compensation fund qualifying criteria needed to take priority. The regulator is unlikely to discuss a response to the PII issue until spring 2020 at the earliest, however, SRA Chief Executive Paul Phillip has stated that there “is no commitment at the moment to do anything” and Richard Collins, SRA Director of policy has indicated that given the concerns raised by many over the quality of the underlying data, he cannot see any reforms being implemented before 2020.

In the meantime however the SRA is pressing on with a new handbook which will incorporate new rules allowing “unregulated” solicitors to have no insurance and for “freelance” solicitors to have “appropriate” insurance. These new provisions will come into effect early summer 2019. Quite what the implications will be for the profession and for consumers - particularly given the focus the SRA places on “client protections” - remains to be seen.

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