

50 Predictions: Professional Liability

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Making predictions about the future of the insurance market is not for the faint-hearted. Our experts have boldly looked ahead at the challenges you may face over the next year and produced 50 focused predictions.

Valuers should expect a resurgence of defects claims

Stronger activity in the housing market has resulted in increased claims against valuers by purchasers of residential property. Whether relying on a mortgage valuation report, homebuyer report or building survey, homebuyers often do not appreciate the limitations of each product. As defects come to light following completion, consumers seek to hold the valuer liable for unanticipated repair costs. An increased appetite for complaint, combined with a rise in litigants in person (to avoid the costs of legal representation), will inevitably create additional costs for valuers and insurers. Early evaluation and familiarity with the ombudsman process are essential in responding to these claims. Comprehensive surveyor notes, digital photographs and strong terms of engagement remain the key components of a successful defence.

Pensions deregulation will challenge us all

The swift introduction of fundamental changes to the pensions landscape will inevitably result in mistakes and unintended outcomes. The sweeping reforms that came into force in April 2015 removed the requirement to purchase an annuity and provided greater freedom in accessing pensions savings. While there are risks for a large number of professions including accountants, actuaries, administrators and solicitors, it is financial advisers whose exposure is greatest. The government made a commitment to free advice for people facing retirement, but many will require more bespoke advice. It is a time of great opportunity but advisers that go beyond the government's basic model need to consider carefully how to assess and address this risk, learning the lessons from past mis-selling scandals.

CDM Regulations will increase the risk for construction professionals

Construction professionals will be exposed to an increased risk of liability in the event of accidents on construction projects, following the introduction of the Construction (Design and Management) Regulations 2015. The Regulations, which came into force on 6 April 2015, impose additional duties on designers and create a new role, the Principal Designer, which has wide-reaching obligations to ensure risk of injury on construction projects is minimised. These Regulations raise issues of awareness both for construction professionals, in terms of knowledge and training, and for their insurers, in terms of understanding their insureds' responses to the duties.

Tax avoidance clampdown poses challenges for insurers

The effect of Accelerated Payment Notices (APNs) and Follower Notices, brought in by the Finance Act 2014, will be felt acutely by accountants, financial advisers and their insurers. APN demands can require investors to repay disputed tax within 90 days. HM Revenue & Customs' up-to-date projections have increased the likely scale of tax demands made under its new powers from £7 billion to £7.55 billion. It has also indicated that the 2015/16 tax year will be something of a peak, expecting to serve APNs worth over £1.23 billion this year. We are already seeing numerous block notifications from accountants and financial advisers in particular, although other professions can also be affected. This trend can be expected to continue and to increase.

Scams and cyber breaches will hit lawyers and their insurers

So-called 'Friday afternoon' scams and email hacking frauds are the latest threat to lawyers and their insurers. According to the regulator, one law firm a week is reporting such attempts to gain access to its client accounts. This is starting to have a serious impact in the market and is likely to affect insurers' views on risk profile and premium. These issues will continue to come into sharper focus as the majority of lawyers start to renew their policies and underwriters begin to ask questions about their risk management policies. Underwriters will also be asking some fundamental questions about whether the Minimum Terms and Conditions should respond to this emerging risk.

Key developments in 2014/15

- [Construction \(Design and Management\) Regulations 2015](#)
- [AIB Group \(UK\) Plc v Mark Redler & Co Solicitors](#)

- Toombs v Bridging Loans Ltd
- Building Information Modelling
- Procedure

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