

Does one size fit all?

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SRA publishes professional indemnity insurance analysis.

At various points since 2013 / 2014 the SRA has turned its attention to the Solicitors Minimum Terms and Conditions of insurance and proposed various changes.

As a backdrop to the next consultation on the changes to the minimum cover which is due to take place this year, the SRA have published their analysis of professional indemnity insurance trends. Ten years of claims data from 2004 to 2014 from insurers currently active in the market has been analysed.

The SRA's Executive Director of Policy, Crispin Passmore presented the analysis at an SRA Compliance Officer conference in October 2016. Whilst the consultation is yet to come there are some hints as to what the SRA will focus on and the key question may be whether the current Rolls Royce catch all service that the MTC offers is working for all consumers and law firms.

The statistics make for interesting reading, a few highlights are:

- The insurance premium for a sole practitioner costs 7% of his/her turnover.
- A high proportion of claims arise from a small number of legal activities with conveyancing being the worst hit.
- This doesn't mean that claims arise as a result of practitioners not knowing the law, claims mostly result from mistakes which stem from a variety of sources, time pressure, inadequate systems, lack of supervision.
- 98% of all claims where an indemnity payment was made were settled for less than £580,000. Leading questions again to what the minimum level of insurance should be.

Do sophisticated larger corporate clients require the protection of the MTC in the same way in which private clients do? The SRA's formal consultation is likely to go wider than the level of the minimum cover. It is likely that the SRA will again consider how run off cover should be paid for and whether it should be provided to firms who have not paid for it.

The concern is that as the MTC stand they are unsustainable; in particular when the increase in cyber crime is considered. Claims in this area are increasing. One consideration which has been highlighted is whether cover in this area is taken outside of the MTC and whether different requirements should apply to cyber cover. Should this be a standalone product for those who handle client money and should similar terms as those which apply to a typical house insurance policy be in place? For example, should insurers encourage solicitors to take certain steps / have certain safeguarding procedures in place in order for them to qualify for cyber cover?

Although it is clear that the recent publication is simply a presentation of the data that the SRA has collated it is clear that the SRA are not content to allow the MTC to carry on as a one size fits all product. The SRA do not appear to be attracted to the medical professions model which requires that "adequate and appropriate" insurance should be in place. There appears to be agreement in the profession that a minimum level of cover should be in place to protect consumers.

Reform is probably overdue. The next step is for the SRA to engage with stakeholders to find a balance between consumer protection, allowing firms to offer competitive services and ensuring any changes don't see a mass withdrawal of insurers from the market. We await the consultation paper with interest.

A copy of the SRA's full presentation of the statistics can be viewed [here](#).

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