



© marinepics
BG Spirit, winner of round-the-world Global Challenge race, on which Legal Risk's Tony Summers sailed.

Controlling the risk

A major drive by law firms on their risk management and protection of partner assets is revealed in our third annual Professional Indemnity Survey of Top 100 firms in the United Kingdom.

Our survey asked about the renewal process which firms went through in 2005. The topics are evidently of some interest and concern to the profession with 1000 downloads of last year's survey from our website in addition to extensive hard copy circulation.

We asked two additional questions this year, focusing in more depth on what firms are doing to protect themselves and their partner assets. While the number of really large

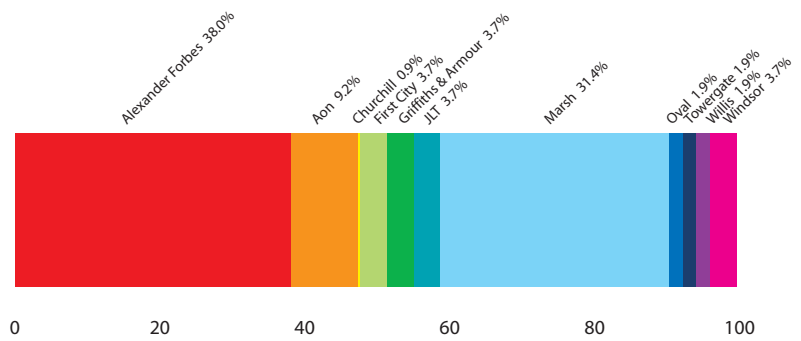
law firm claims remains low, there are signs of increasing incidence which reflects a trend already noted in the United States.

The first new question asked whether firms are limiting their liability contractually. Secondly, we asked whether firms had converted to Limited Liability Partnership (LLP) status, and if not, whether they were planning to do so in the next 12 months.

Choice of Broker

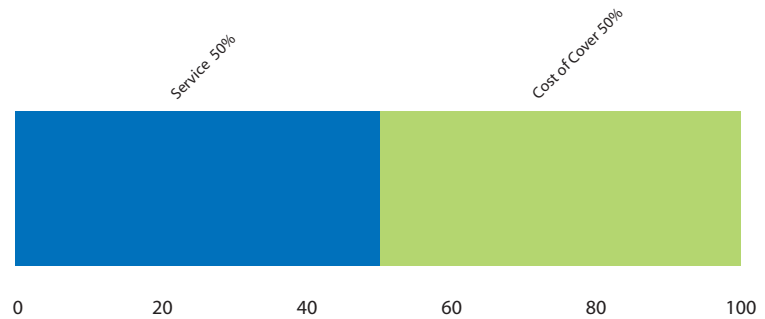
Who is your broker?

The top spot, as in previous years, was Alexander Forbes with 38 per cent, down 1 per cent from last year. Close on their heels, as expected, were Marsh with 31 per cent (24 per cent last time). Marsh also, notably, had half the respondents in the top 10 and in the top 20 firms. In third place came Aon with 9 per cent.



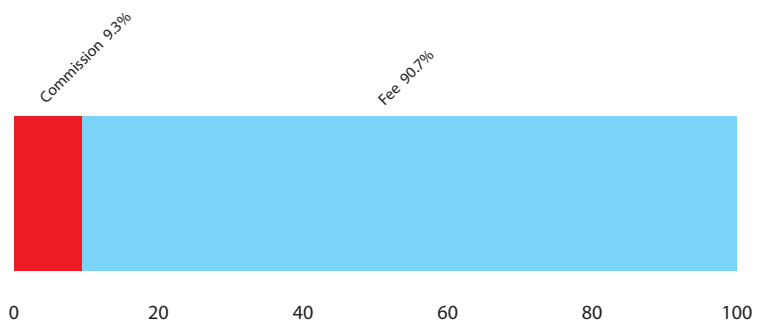
If you changed broker, why did you do so?

Last year we reported that nearly one in five firms changed brokers. Not so, this time, when only 7 per cent changed broker, on grounds split equally between service and cost of cover. Issues which featured in previous years' replies but which were not given this time were Personal relationship (42 per cent last time), Broker's market position (17 per cent) and Broker's fee (5 per cent).



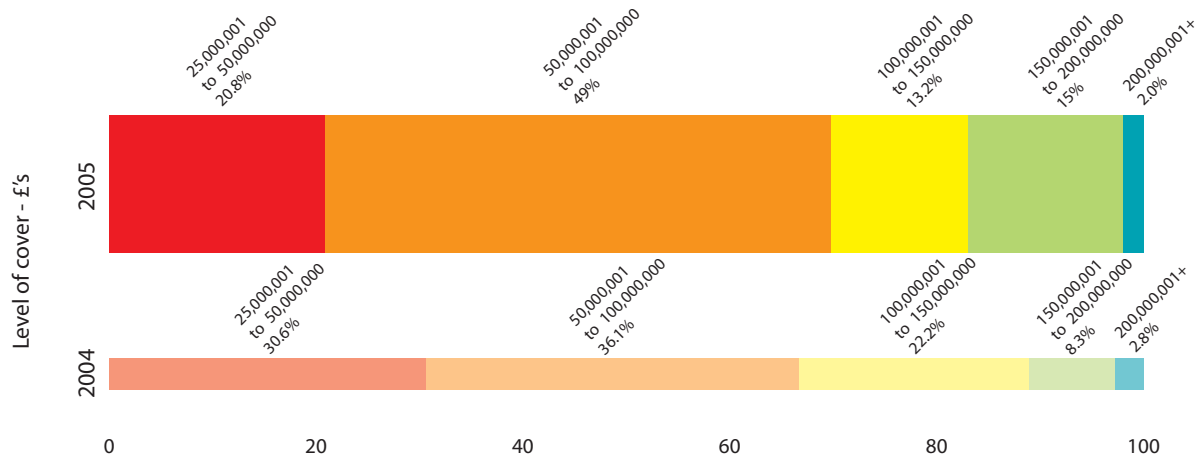
What was the basis of payment to your broker?

We have expressed surprise in previous surveys that some large firms continue to remunerate their brokers on a commission basis, given the inherent tension when seeking to save money on the firm's third largest overhead. The proportion paying commission was 9 per cent (8 per cent last time) and included firms in the top 10 and top 20 as well as smaller firms.

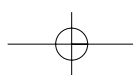


Cover

How much cover did you obtain?



Note: One firm did not reply to this question



There was a notable trend of buying more cover. This was the first year of the new 'aggregation rule', and we suspect this had a material impact on the situation.

The aggregation rule, following a change in the wording in the Law Society's Minimum Terms and Conditions of Insurance, makes it more likely that insurers can treat multiple claims arising from similar acts or omissions, or from one transaction, as one claim.

The increases may also have been coupled with a greater overall awareness of risk and higher value work across the board.

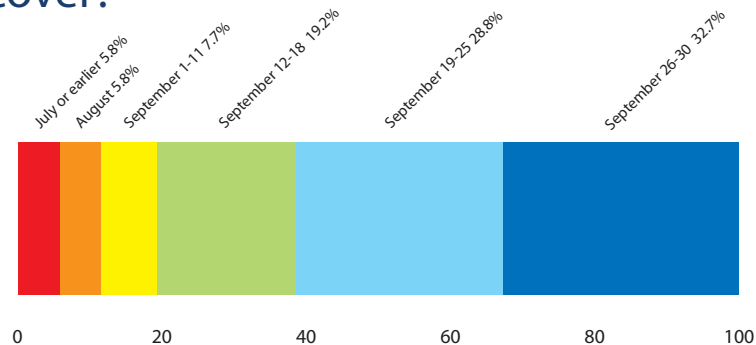
The key changes appear to be more firms moving up from the £25-50 Million bracket into the £50-100 Million level, and those moving up from £100-150 Million to £150-200 Million.

While this could have been due simply to more large firms responding, an examination of the records shows this is not the reason; 15.6% of those who replied last year and this year had moved into a higher bracket, though others may also have increased cover while staying in the same bracket.

When did you finalise this year's cover?

As in previous years, the majority of the activity took place in the closing weeks before the 1 October renewal deadline and the cumulative totals follow an almost identical pattern to last year. Once again, this probably reflects the highly competitive market, with overall premiums for the profession's primary cover reduced, and again we suspect that firms had quotations but were hanging on for the better deals.

In contrast to the last two years, however, all firms who responded completed their renewal in time. Last year 2 per cent were late, and the previous year it was a remarkable 7 per cent.



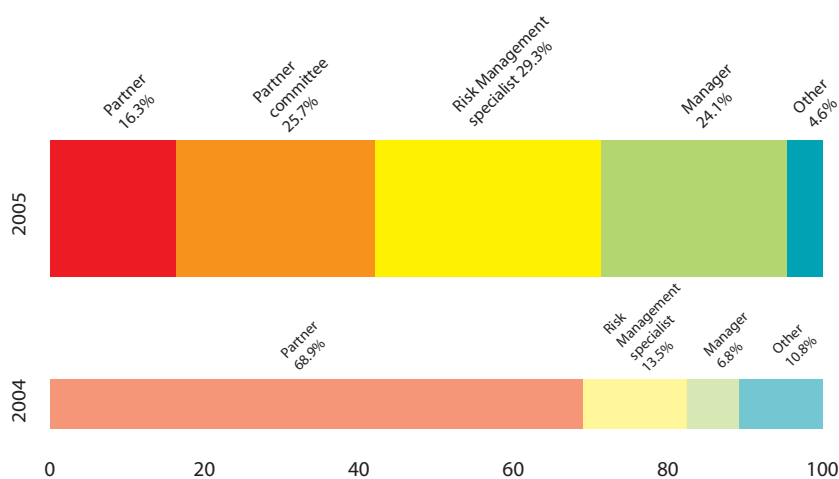
Note: We have excluded Scottish firms from this table as their renewal date is 1 November rather than 1 October.

Did you obtain as much cover as you wanted?

All firms obtained the level of cover they wanted, as they did last year, though one firm had not managed to do so the previous year.

Systems

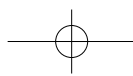
Do you have a person responsible for risk management?

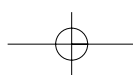


This is the biggest area of change over the past three years. The appointment of risk management specialists has doubled year on year – now at 29.3 per cent of respondents, as against 5.6 per cent two years ago; it is also a trend we have noticed is spreading to firms outside the top 100. The emergence of partner committees is also apparent with 25.7 per cent of firms having them. A variety of other senior management hold responsibility in other firms, including Chief Operating Officers and others of similar status.

Coupled with these developments, there has been a marked decline in the number of firms with a partner

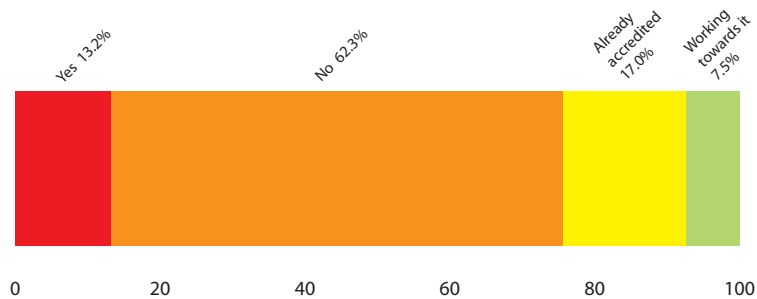
in sole charge – 16.3 per cent as against 68.9 per cent last year and 86.1 per cent the year before. This could be interpreted as a reduction in firms' investment in managing risk, but we think that would be a mistake: although we know of a number of firms with a partner with hands on, day-to-day responsibility for risk management (including four respondent firms), we are reasonably confident in saying that in most other cases the role was subordinate to fee earning. The appointment of full time risk managers to deal with risk means, therefore, that the task is now more likely to receive the attention it needs.





Are you considering Lexcel accreditation?

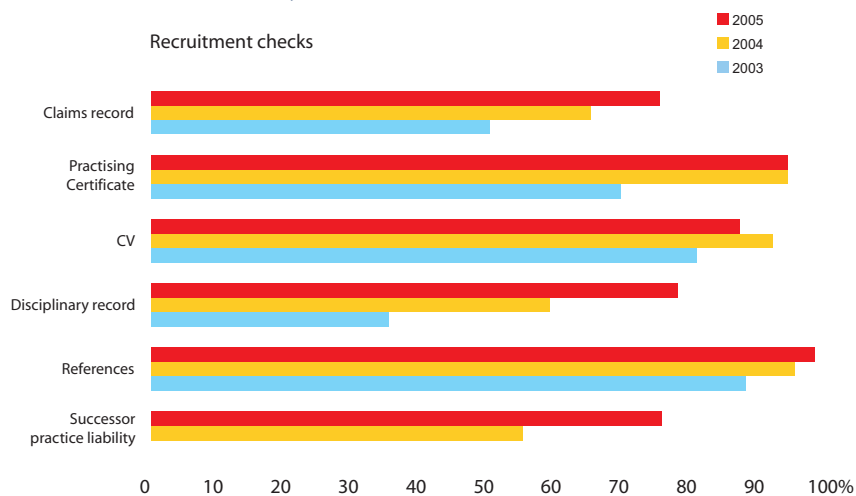
Lexcel is not only the Law Society's quality mark, but a useful framework for managing risk, even for those not planning to go down the route of accreditation. Since our surveys started, more large firms have it and more large firms are considering it. While many large firms have traditionally perceived it as being more aimed at the high street practice, the growth in public sector work has increased the focus on quality accreditation, and there is growing interest in the commercial sector too. There are already top 50 firms with Lexcel, and we know of others considering it actively, including practices in the top 20 and top 30.



Note: One firm did not reply to this question.

When making lateral hires what checks do you make?

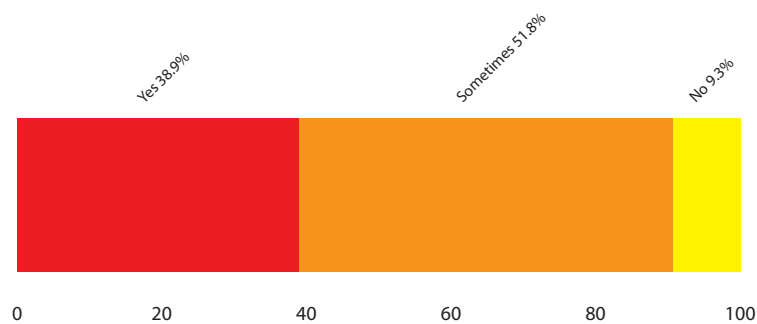
This is another area where the growth in attention to risk management issues is apparent, though the fact that there are gaps in carrying out straightforward, critical checks must continue to cause surprise. Since our surveys started, the number of checks has changed markedly – claims records up from 50 per cent to 73.6 per cent over two years, disciplinary records up from 36.1 per cent to 79.2 per cent over the same period, and successor practice liability up from 54 per cent last year to 78 per cent this year. As we explained in last year's survey, even large firms can catch a cold for failure to check on successor practice liability and have found themselves almost uninsurable in consequence.



Notes: One firm did not reply to this question. We did not enquire about successor practices for 2003.

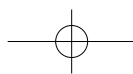
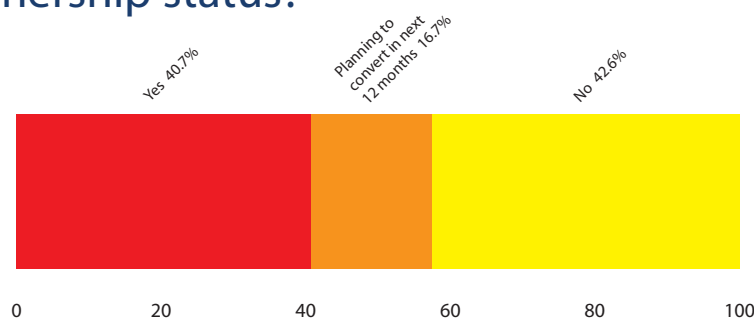
Do you limit liability contractually?

This was one of the more notable aspects of the survey, with only 9.3 per cent of firms not limiting liability contractually at all – down from the 80 per cent found in a City of London Law Society survey in 1999. Even more recent surveys by others have not shown anything approaching this latest response. However, the response does accord with Legal Risk's experience of firms of all sizes showing a growing interest in limiting liability in order to help protect partner assets. Long accepted as the norm by accountants, it is becoming more acceptable to clients that law firms should enjoy similar protection.



Do you have Limited Liability Partnership status?

Limited Liability Partnership status is rapidly gaining ground in the top 100 as partners seek to protect themselves. It is also growing in recognition as a potential recruitment issue too. Of those not planning to convert in the next 12 months, at least one is planning to do so in the future and we expect that others will inevitably do so when they have overcome accountancy or other issues which may stand in the way of them doing so at present.



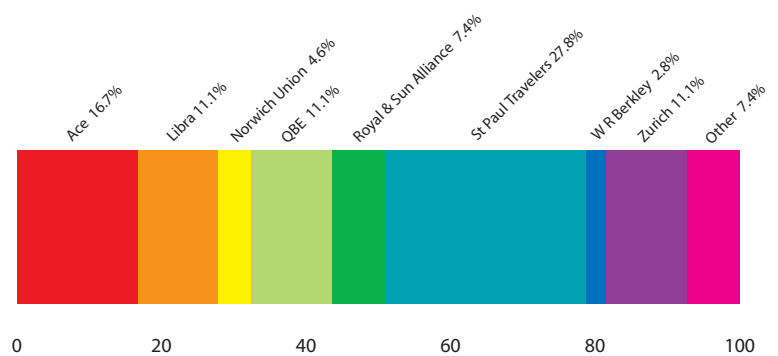
Key points from the survey –

- 1 Many firms increased their cover, in part addressing new policy conditions restricting cover for multiple, similar claims;
- 2 Twice as many firms have appointed risk managers compared with last year;
- 3 Many more firms are protecting partner assets by contractual limitation of liability and conversion to Limited Liability Partnerships.

Choice of Insurer

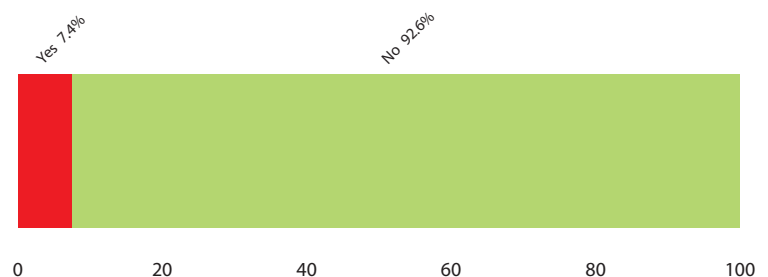
Who is the insurer of your primary layer?

The number of firms changing insurers has diminished year on year, but there were still some very large firms changing this year. The St Paul remains the dominant player, albeit with a marked reduction on last year's survey response from 35.1 per cent down to 27.8 per cent. Ace have long enjoyed a significant role in the large firm market, and their share is up from 14.4 per cent to 16.7 per cent. Libra retain their joint third place, which they now share with Zurich and QBE. Norwich Union slipped back from last year's joint third place, while Royal & Sun Alliance trebled their share.



Did you change insurer this time?

Again, increased competition may have enabled firms to maintain loyalty with their existing insurer at reduced cost. The number of firms changing was only 7.4 per cent, against 13.5 per cent last year and a dramatic reduction on the previous year's 33.3 per cent. Among those changing insurer, the sole reason was cost.



Notes on data

We invited the top 100 UK law firms to respond. 54 replied from across the whole spectrum. Where charts contain data for more than one year, references to a given year refer to the data we collected in that year and which is contained in the following year's survey. Data for the 2004 year, for example, is contained in our 2005 survey.

About Legal Risk

We are practising solicitors who specialise in advising other professional firms and their insurers and lenders. Our practice areas are risk management, professional indemnity, partnership and anti-money laundering and other compliance issues. Our successes include saving one firm nearly £500,000 on professional indemnity.

We differ from other risk management advisers – we have experience of practice in large law firms, we have substantial experience of professional indemnity issues, and we do legal work for 'real' clients. We help firms with risk managers to maximise the return on their investment.



We are recommended in Legal 500 for defendant professional indemnity and anti-money laundering, and won the Law Society's Gazette Centenary Award for Excellence in Risk Management.

We have advised one in seven of the top 100 UK law firms, including some of the largest, and our client base is from London to Australia.

Partners Frank Maher and Sue Mawdsley frequently speak at global events on risk management, insurance and anti-money laundering issues.



Frank Maher and Sue Mawdsley, Partners

Money Laundering Reporting Officer's Handbook: A guide for solicitors

Frank Maher and Sue Mawdsley



Our practice areas include the following -

- Audit – files and systems;
- Claims review – finding solutions for claims disposal and lessons learned;
- Complaints – systems and handling individual complaints;
- Desktop – web based risk management diagnostic tool;
- Disciplinary;
- File audit;
- Insurance Mediation – regulatory compliance;
- Lexcel, with a particular emphasis on the needs of the larger firm;
- Management issues – for example, linking your appraisal system into your risk management;
- Merger and acquisition due diligence;
- Money laundering – compliance, systems, audit, training, problem-solving and strategies for managing risk;
- Partnership – agreements, mergers, acquisitions, lateral hires, due diligence, disputes;
- Professional indemnity – coverage issues, defending claims;
- Regulatory compliance;
- Risk assessments;
- Successor practice issues – claims and coverage issues and pre-merger and acquisition advice;
- Support for in house risk managers;
- Terms of engagement, limiting liability and managing money laundering risk;
- Workshops to obtain firm-wide buy in to risk management.

LegalRisk
Risk Management Solicitors

Legal Risk
Solicitors
28 Bixteth Street
Liverpool
L3 9UH
England

Telephone 0845 330 6791

Fax 0845 330 6792

International Telephone +44 151 231 6230

International Fax +44 151 231 6231

Email info@legalrisk.co.uk

www.legalrisk.co.uk

The firm is not authorised under the Financial Services and Markets Act 2000 but we are able in certain circumstances to offer a limited range of investment services to clients because we are members of the Law Society. We can provide these investment services if they are an incidental part of the professional services we have engaged to provide.

Partners: Frank Maher and Sue Mawdsley

© Legal Risk 2006 Regulated by the Law Society