

## Why insurers 'on edge' about personal injury

**With the number of professional indemnity notifications against personal injury solicitors increasing by a reported 60%, Grania Langdon-Down talks to Frank Maher, partner with Liverpool-based Legal Risk, about why insurers are "very on edge" about the personal injury market...**

The number of professional indemnity notifications against personal injury solicitors has jumped by 60%, according to insurers Zurich Professional, which has warned that further litigation against firms involved with claims management companies could be on the cards. Frank Maher, partner with Liverpool-based Legal Risk, says insurers are "very on edge" about the personal injury market following The Accident Group litigation which has led to claims against one in 13 law firms in England and Wales.

Maher says: "Talking to brokers and underwriters, the general impression is that it is going to be fairly easy for people to renew their indemnity insurance this year, apart from firms who do PI work. If you look at proposal forms, a number of brokers are asking firms if they have done any PI work that is backed by after the event insurance. There is nothing wrong in principle with this type of work, because it is only like a form of privatised legal aid, but all those who do it must now be on amber alert about getting a claim."

He says the other big areas for claims are intellectual property, perhaps where firms which aren't experts slip-up during a transaction, and financial services, including endowment-related claims. The next hot topic is likely to involve equity release issues. "There has also been quite a substantial hit on dishonesty claims over the last year or two. Figures produced by the insurers St Paul Travelers on claims over £1 million found that a quarter of those involving firms outside the top 30 were for dishonesty, which is pretty scary."

Another key issue involves successor practices. Maher says they represent a sixth of their practice, affecting large and small firms alike. Recent problems include a firm taking over £100,000 of annual fee income, only to find it carried a premium hike of £80,000.

Maher says premiums are likely to stay "fairly static", but firms are not going to get as much cover for their money. Although the Law Society has increased the minimum cover from £1 million to £2 million - £1.5 million to £3 million for limited liability partnerships - the big issue will be the new 'aggregation rule', which provides that similar claims can be added together for calculating the limit of cover. "New wording agreed by the Law Society and insurers means that a firm can take out £5 million cover for each and every claim and make a dozen unrelated mistakes for unrelated clients and claim £5 million for each case. But if the mistake is similar in each case, which it might be if the firm is using the same precedent off their system, then they will all be treated as one claim and the £5 million will have to be shared among the claimants and it might not be enough. The maximum impact is likely to be on bulk conveyancing and PI and financial services firms but it could still result in big

firms catching a cold as well."

He also warns that when premiums are kept low by market forces, insurers are much more likely to take policy points, for instance over non-disclosure, and refuse to pay out over claims. "Last year, premiums were cheaper than during the last year of the Solicitors Indemnity Fund in 2000 and no one every accused SIF of undercharging. There are one or two new entrants to the market which is likely to keep premiums down for a year or two but then things are likely to start to bite."

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