



Thought leader

Change, enemy of the complacent, is no more apparent in professional life than in risk management.

For instance, the new Solicitors Indemnity Insurance Rules, effective from 1 October 2005, set out the Minimum Terms and Conditions for the insurance of solicitors in England and Wales. These will increase the minimum level of compulsory cover from £1m to £2m. Why does this matter to a firm with, say, £100m cover or more? As ever, the devil is in the detail, and all partners need to look carefully at the so-called aggregation rule.

In simple terms, the cover until now has been on an 'any one claim' basis, so every claim is covered for £1m (plus defence costs). But the new rules will enable insurers to curtail that severely. The new definition of one claim states that the insurance may provide (and one can assume that in practice, it will provide) that all claims shall be treated as one claim with one £2m indemnity limit if they arise from one act or omission, one series of related acts or omissions, the same act or omission in a series of related matters, or transactions or even similar acts or omissions in a series of related matters or transactions. They also provide that all claims arising from one matter or transaction will be regarded as one claim.

The consequences of this are two-fold. First, firms need to review whether their cover is still adequate, given that it may be severely curtailed, and apply a single limit to claims from multiple clients. To illustrate the point, the case that caused insurers to seek the change arose from multiple misselling of pensions, but the impact is not confined to financial services as there have been plenty of examples of multiple claims against law firms and other professionals.

Top-up policies will no doubt introduce a similar restriction on cover.

Second, firms increasingly seek to limit liability contractually. Law Society rules prevent firms limiting liability below the minimum level of cover. It is practically impossible to limit liability in a way that fully meets the challenge of the new aggregation clause, because terms cannot apply across the firm's client base. This will mean, perhaps, that more firms will see the attraction of LLP conversion.

A question: Do all your partners fully understand the extent of, and limitations on, the firm's professional-indemnity insurance? After all, the aggregation clause is but one of 70 in the Minimum Terms alone.

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