

# Solicitors professional indemnity could become unsustainable

The International Underwriting Association has published an [open letter to solicitors](#) in England & Wales, warning that the market for their compulsory insurance could become unsustainable if underwriters are not allowed to cancel policies where the premium is not paid.

Key to their concerns is the obligation, imposed under the terms which each insurer is required to agree with the Solicitors Regulation Authority (SRA), to provide six years' cover if a firm ceases to practise without a successor in place, even if the firm fails to pay the additional premium, commonly a multiple of between two and four times the premium for the initial year's cover but sometimes more.

The concern is exacerbated by the tougher market conditions, with approximately 70 per cent of firms due to renew cover on 1 October 2020, the economic environment arising from the Covid-19 pandemic, and the heightened risk of conveyancing claims if the property market falls; previous property market crashes have given rise to substantial claims against law firms, particularly from mortgage lenders.

The challenge for the SRA is that if they accede to the insurers' demands, the protection for the public will be reduced. That in turn means that claims would not be met, unless the SRA were to open up the Compensation Fund to such claims, with the cost borne by the profession. However, any claims would almost certainly be capped at £500,000, in line with the SRA's recent decision to reduce limits on payments by the Fund, and exclude large businesses such as mortgage lenders.

Any changes would bring significant risk to partners and staff in law firms - potentially affecting those who have retired already - as they would be exposed to personal liability. While I am a practising solicitor, not an insurance broker, I very much doubt that they would be able to purchase insurance to cover that risk in practice. At present, they can sleep easily at night knowing that in general a firm will have some insurance. There may however be some circumstances where a firm can close without the full six years' run-off cover in place and care is needed where this may arise.

The proposal is therefore a real concern for partners and staff in law firms, many of whom can have little or no involvement in the firm's insurance arrangements.

Insurance arrangements are a key consideration for partners in firms which are closing or selling up. In the course of advising firms on this, we have encountered some significant issues, particularly involving large UK and US firms with London offices which have collapsed. I have seen one case where there was a multi-million pound claim against partners in a failed law firm with no effective cover in place to protect them.

There is no one size fits all solution, so those affected should take advice.

The IUA letter is [here](#).

## Further information

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