

Choosing Levels of Professional Indemnity Insurance for Solicitors

All solicitors in the United Kingdom are required to have professional indemnity insurance (PII) by their regulatory bodies. Solicitors in England and Wales are regulated by the Solicitors Regulation Authority (SRA), which sets out minimum terms and conditions that must be included in all solicitor professional indemnity policies. Solicitors in Scotland and Northern Ireland are regulated by their respective law societies, and their professional indemnity insurance policies are created through a compulsory Master Policy.

It is imperative that solicitors and law firms recognise emerging professional indemnity risks, do everything in their power to protect themselves from those risks and choose appropriate levels for their PII policy.

What It Covers

Solicitors' PII covers civil liability claims arising from work in private legal practice. Most claims brought against solicitors working in private practice relate to professional negligence attributed to mistakes and errors and omissions. These types of claims can give rise to compensation and legal defence costs, which can be substantial.

Exclusions may apply and will depend on which country you practice in and what is allowed under the minimum terms and conditions (in England and Wales) or Master Policies (in Scotland and Northern Ireland).

What It Does Not Cover

In general, PII does not provide cover for the following:

- Defence costs for disciplinary proceedings by the SRA or the Solicitors Disciplinary Tribunal

- Dishonesty, fraudulent acts and/or omissions that have been commissioned or condoned by an insured individual
- Liability for bodily injuries (including death) and damage to property

It is imperative that solicitors and law firms recognise emerging professional indemnity risks and do everything in their power to protect themselves from those risks.

- Partnership disputes, which include any actual or alleged breach of partnership or shareholder agreements
- Employment breaches, discrimination or wrongful dismissal
- Personal debts and trading liabilities or guarantees, indemnities, or undertakings that directly or indirectly benefit an insured person
- Fines, penalties or orders to pay costs in the investigation into the professional conduct of an insured person

In addition, if your firm is found to have engaged in non-disclosure of relevant factors, misrepresentation, dishonesty or fraud, you may be liable for the full costs.

Provided by **Credon Insurance Brokers Ltd**

The content of this Risk Insights is of general interest and is not intended to apply to specific circumstances. It does not purport to be a comprehensive analysis of all matters relevant to its subject matter. The content should not, therefore, be regarded as constituting legal advice and not be relied upon as such. In relation to any particular problem which they may have, readers are advised to seek specific advice. Further, the law may have changed since first publication and the reader is cautioned accordingly. © 2017 Zywave, Inc. All rights reserved.

Choosing Levels of PII for Solicitors

How Much Cover is Necessary

The minimum amount of cover that you are required to have will depend on your firm's type. Firms defined by the SRA as relevant recognised and licensed bodies are required to have cover of at least £3 million for any one claim. In all other circumstances (such as with sole practitioners and partnership firms), firms are required to have at least £2 million for any one claim.

Level of Cover Considerations

As your firm's PII policy will be tailored to your specific needs, there are several factors to consider when deciding what level of cover is necessary. When deciding how much cover is required for your firm, ask yourself the following questions:

- How big is my firm and what is the minimum level of cover required?
- What types of clients generate the largest fees?
- What is the most contentious type of work (such as commercial, company corporate, and mergers and acquisitions) that I handle?
- How many transactions do I handle that could increase my exposure? What is the value of those transactions?
- What are my highest contract values for the past five years?
- Do I have any large conveyancing transactions? If so, what is the value of the potential losses associated with them?
- How would my firm mitigate potential losses? Has my firm conducted a risk assessment?
- How much money (at most) is held in my client account and would it be enough to meet known claims?
- What is my firm's claim history, likely claim exposure and level of claimant costs?
- Is there any contentious work from the past I need to guard against? Because solicitor PII is offered on

a claims-made basis, it will only cover you for claims brought during the term of your policy, regardless of when the incident occurred.

Factors that Influence Your Premium Cost

The cost of your PII premium will be determined by several factors, which include the following:

- Your firm's insurance claims history
- The type of work performed by your firm
- The number of staff members at your firm
- Your firm's revenue
- Excess amounts

Excess Layer or Top-up Cover

Excess layer or top-up cover is insurance cover for claims that rise above the compulsory level. All solicitors and firms should conduct an individual assessment to see whether their minimum required levels of cover are sufficient and how much excess layer cover is needed. This assessment should be based on the firm's size, structure, claims history and exposure to risks. If you have a single claim (or aggregate claims from related acts or omissions) that exceed the indemnity amount covered in your policy, then you could be liable for the remainder if you do not have excess layer cover.

Firms should conduct a risk assessment before accepting new clients or new work to check that the new risks will not exceed the current indemnity limit.

Get Informed, Be Prepared, Stay Safe

All solicitors and law firms need to make sure that they are protecting themselves from the ever-increasing and emerging areas of PII risk. At Crendon Insurance Brokers Ltd, we understand that as a solicitor, you have different needs from other professionals. We can help you obtain the most cost-effective policy available while providing the protection you need. Contact us today to learn more about all of our bespoke insurance solutions.