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Mr Chris Kenny
Chief Executive
Legal Services Board
One Kemble Street
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30 July 2014

LEGAL SERVICES

31 JUL 2014

BOARD

Dear Chris

Solicitors Regulation Authority's Boards' decision to reduce minimum PII cover

We understand that the Legal Services Board will shortly be considering the Solicitors Regulation Authority (SRA) Board's decision on the proposed regulatory changes to reduce the minimum PII level of professional indemnity insurance (PII) cover for solicitors firms in England and Wales.

We published a formal consultation response to the SRA's proposal to reduce solicitors' minimum PII cover to £500,000 on 18th June 2014. I have attached a copy for your reference. As we highlight in our response, it is the type of work undertaken by a solicitor that should be the driver of the required cover. As such, a reduction in the minimum PII cover would drive perverse behaviors from some firms observing the reduction, as an opportunity to reduce their PII premium without giving appropriate consideration to the potential consequences in failing to have the adequate cover.

The SRA's consultation assumes that lowering PII limits would lead to a meaningful reduction in premiums for smaller firms, leading to a reduction in the hourly rates charged by solicitors to their clients. This is misguided. Those firms with a poor claims track record would still be rated highly whether they were buying cover for £500k or £2M/£3M. Reducing the PII limit will not reduce the risk to insurers to such an extent that the cost of cover will reduce in proportion to the limit reduction from £3M (or £2M) to £500k. Such a reduction in limits across the board is likely to result in minimal premium reductions at best.

Those firms, who may purchase the lower level of cover as a way to reduce the cost of their PII premium, would be leaving themselves exposed to a greater risk of insolvency if there was insufficient insurance cover and where a shortfall arises in relation to a claim. As a result, the cost of these uninsured claims will ultimately be borne by the legal profession due to increased payments from the compensation fund. Our concern is that of consumer protection. Where a firm does not have sufficient insurance cover, there will ultimately be a client shortfall on recovery. There is uncertainty as to whether any such shortfall would be met by the compensation fund. If it is, then the shortfall will fall to the legal profession by way of levy, penalising those firms who do make prudent and sensible arrangements for their own PII cover.



It would be inappropriate for firms dealing with cases and transactions in high risk areas of law such as conveyancing, clinical negligence, catastrophic personal injury or probate to take out the proposed minimum level PII cover, even if it was offered to them, as this would not provide sufficient protection for their clients. Firms need to ensure they obtain proportionate levels of cover, balanced against the risk of their activities and not simply based upon their gross fee income. This point is particularly important for firms within the London conveyancing market, where the average property price far exceeds the national average. Sole practitioners and small one/two partner conveyancing firms who may not be on lenders panels and who opt to take out only the proposed minimum PII cover will not have sufficient cover for their clients where a claim may arise.

The timing of the SRA's consultation is of significant concern, as there is a danger that all the consequences of these proposals, if implemented, will not have been thought through fully and without the opportunity for a full impact assessment. The proposals, if ratified would leave both insurers and the legal profession just eight weeks at most to digest and implement any changes. Should any of the proposed changes be implemented before the renewal date, this would result in a significant level of uncertainty in the market given that PII renewals continue to be undertaken by brokers and insurers with their customers for some time.

Given the LSB's role in such an important and fundamental change for the legal profession, we thought it would be prudent and appropriate to highlight the concerns of the insurance industry. We urge you to strongly consider the ramifications of the SRA's decision and to reject their proposal in the strongest terms.

We understand the Law Society of England and Wales and the Council of Mortgage Lenders may be in contact with you to highlight similar concerns.

We look forward to the LSB's decision with interest.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Oth', is positioned below the 'Yours sincerely,' text.

Otto Thoresen
Director General