

BY EMAIL

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Dear Paul

Warning notice issued pursuant to paragraph 21(1)(b) of Part 3 of Schedule 4 to the Legal Services Act 2007

I have copied to you the formal warning notice served on the Law Society as approved regulator in respect of the PII rule change application. This letter gives more detail about our view of the wider context and our specific concerns about the application.

We welcome the fact that the SRA has started to look widely at the issue of financial protection and indemnity insurance. There is a clear policy need to examine whether the appropriate balance is being struck between client protection on the one hand and additional costs to the industry, ultimately borne by clients, on the other. There is also a need to consider the appropriate balance in this area between detailed prescription and a sharper focus on more simply defined outcomes. In this area, as elsewhere, our initial view is in favour of the latter.

In addressing those issues, the SRA will need to examine the system in the round and be alert to the danger of unforeseen consequences. The recent call for evidence is a very positive step in that direction. The LSB considers that the SRA is right to examine all options, rather than operating on an assumption that the current position is necessarily the right basis from which only incremental change may be needed. It should not be taken as read that current arrangements in this area are necessarily underpinned by a very strong evidence base, as opposed to simply being the result of custom and practice. In that respect, we note the general absence of data in the submissions made to the LSB by other stakeholders, as well as in the application itself.

Turning to the current narrow application, as the notice makes clear the LSB is concerned in particular about that part of the application that, if approved, would reduce the minimum level of professional indemnity insurance from the current level of £2m (£3m for incorporated firms) to £500,000. This could be argued to be prejudicial to the regulatory objective of protecting and promoting the interests of consumers.

Our specific concerns about the current application, noting that it deals with only part of the full financial protection arrangements, are that:

- Whilst we note that the data is the best available, without a specific survey and/or modelling exercise, it may not be sufficiently recent to be a reliable basis for the development of forward looking policy;
- The consultation and the application both present potential cost savings as a key driver for the change but there is only limited evidence that this will be achieved. In particular, the impact on the price of top-up cover does not seem to have been explored in any detail and the time that may be required for the market to adjust to the new regulatory requirements (in a way which may result in these potential cost savings) has also not been explored sufficiently;
- The potential impact on the Compensation Fund has not been fully explored and consulted on.

We will, of course, consider any further points you wish to make to us in relation to the specific concerns outlined above. To enable us to determine this application by the end of September, we would need to be in receipt of any further evidence by 5 September. We look forward to continuing to work with you more generally on the important programme of work which is starting to move forward on the issues as a whole.

A copy of this letter has been sent to the Law Society.

Yours sincerely



Chris Kenny
Chief Executive

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cc Des Hudson, Chief Executive, The Law Society
Charles Plant, Chair, Solicitors Regulation Authority
Enid Rowlands, Chair Designate, Solicitors Regulation Authority