

Professional Indemnity Insurance Reporting Procedure/Protocol

General

PII Insurance is in place to protect the Law Society against its' civil liability to pay damages to those who sustain a loss arising out of the Law Society's professional negligence in accordance with its activities as disclosed to insurers. Liability may result from:

- Negligence
- Breach of Statute
- Breach of Contract
- Third Party Losses
- Agency
- Defamation

The Law Society has an indemnity of €5m in the aggregate with a policy deductible of €75,000 for each and every claim.

The key elements to proper control of our insurances are accurate and timely notification of any potential threats or circumstances to the Society which can be broken into 3 areas:-

1. Potential circumstances
2. Threat of action or a serious complaint
3. Proceedings issued

Reporting New Matters and updating via Law Society Insurance Case Management System

If you have a new PII Matter ("Matter") to report and do not have access to the Law Society Insurance Case Management System ("system"), contact: m.mcneice@lawsociety.ie and you will be allocated an account. When you become aware of a potential Matter or issue against the Society, complete a Matter form on the system (see Appendix 1). Notify your Department Head that you have reported on the system. The Department Head will log onto the system to consider and approve the new Matter. Directors have visibility and approval actions for Matters pertaining to their own Department. Once approved by your Director, notify m.mcneice@lawsociety.ie that a new Matter has been inputted on the system. All relevant correspondence and documents in relation to the matter should be uploaded within the Matter. The Matter form comprises the below fields:

- Executive Summary (250 words max)
- Background (including chronology of events)
- Statement as to nature of threat / circumstance
- Estimate / judgement as to the Society's exposure
- Estimate of quantum involved
- Judgment if possible, of the likelihood of a successful claim
- Corrective action taken or proposed to mitigate the loss.
- Updates: to add an update to the Matter.
- Documents: to upload a document pertaining to the Matter.

The Finance & Operations Department will make an assessment as to the necessity to report / notify Matters to insurers. If a report is made to insurers, an external Matter reference is assigned to the notification and insurance matter list is updated. This list is known as **Appendix D**.

Quarterly Report

Each quarter the Finance & Operations Section reviews Appendix D with our insurer.

- Department Heads are asked to confirm that there are no unadvised developments on existing Matters and to ensure any new actions/threats of action or potential circumstances which may give rise to an exposure for the Society have been advised.
- Each case manager will provide updates for their previously reported PII Matters (and via the system).
- Any updates, however small in nature should be reported, as this indicates the Matter is still live. Based on these updates Appendix D is also brought up to date and sent to our insurers.

Updating Matters Already Reported

It is essential the Finance & Operations Department is kept advised of all developments in relation to Matters already notified. A Matter can be updated at any time on the system. Updates should be provided as soon as you are made aware of them. Do not wait for the quarterly PII process or the renewal process in June to provide Matter updates.

Updates at insurance renewal

Insurance renewal is an important time to ensure all Matters are advised for the reason if we change insurers at renewal time (usually end June) it is possible that neither the previous nor new insurer will admit to being on risk for an unadvised Matter. It is extremely detrimental to the Society (and ultimately to our insurance premium) if new Matters are not reported to our insurers at renewal time or when Matters have been clearly within our knowledge for some time and not immediately reported.

The policy responding to the claim is the policy in place in the year where:-

1. the claim is made or possible circumstances of a claim has been notified to the insurer, or
2. circumstances of a potential claim are notified to the insurer.

A policy may not respond however, if there has been an unreasonable delay by the Law Society in notifying the Matter to insurers..

Update Requests by Insurers

From time to time our insurers may request an update in relation to a particular Matter. These requests will be via the Finance & Operations Department and should be responded to immediately (and via the system).

Judicial reviews

The Law Society's PII does not cover Judicial Reviews. If however, there is a negligence element embedded in the review, our PII is effective. The following table illustrates when a Judicial review should be notified to the Finance & Operations Department:-

Nature of Scenario	Action
Threat of action with reference to negligence/damages	Advise broker

Threat of action with no reference to advise broker negligence /damages	Do not advise
JR proceedings issued with no reference to advise broker negligence/damages	Do not advise
JR proceeding issued with reference to broker negligence/damages	Do not advise

Closing of Cases

If a Case Manager decides a Matter is no longer of threat to the Society or the situation has been resolved, they should advise the Finance & Operations Department in writing and specify the reason for doing so.

A Matter can be closed:

- When the Matter has been resolved
- There is a definitive statement by the other party that the Matter will not be pursued.
- There have been no developments/correspondence in the Matter for a period of **one year** and in the Case Manager's assessment there is unlikely to be.
- Where a Matter was reported for notification purposes only and unlikely to materialise into a claim/threat, the Matter should be closed after 12 months.

Our insurer will be notified of closed Matters. The Matter will remain on cover until the passage of the Statute of Limitations. Closed Matters can be re-instated at any time. Closed Matters will remain on Appendix D until the renewal process in June and removed when renewal is complete.

Important Notes on Matter Notifications

- Be clear and unambiguous.
- Notification of circumstances is mandatory.
- Give sufficient detail to the insurer so as to leave the insurer in no reasonable doubt of the nature of the circumstance or threat.
- The merit of the potential or actual claim is irrelevant – it is the existence of the circumstances or claim which triggers the requirement to notify.
- Timing of notification is important, as the policy, which responds to the claim, is the policy in place in the year in which the claim is made and notified to the insurer.
- Be made as soon as reasonably practicable.

July 2024.



APPENDIX 1 Matter reporting form on Law Society insurance CMS. Contact m.mcneice@lawsociety.ie to be allocated a system account



Create new Professional Insurance Matter

Responding Policy

Department

Section

Date of Loss / Incident

Third Party

Executive Summary

B *I* U Arial **A** Paragraph

Background (including chronology of events)

B *I* U Arial **A** Paragraph

Statement as to nature of threat/circumstance

B *I* U Arial **A** Paragraph

Judgement of the Society's exposure

B *I* U Arial **A** Paragraph

Estimate of quantum

B *I* U Arial **A** Paragraph

Judgement, if possible, of the likelihood of a successful claim

B *I* U  Arial 10 pt **A**  Paragraph       

Corrective Action taken or proposed to mitigate the loss

B *I* U  Arial 10 pt **A**  Paragraph       

Create