

# Professional Indemnity Insurance - Tips for renewal

## Responsibility for renewal

- 1.1. Ultimately, you are responsible for obtaining professional indemnity insurance (“PII”) before the mandatory renewal date of **1 December 2020**. This date is not negotiable.

## Collect information now

- 1.2. Firms should start collecting information well in advance of submitting the common proposal form, as the information required can be difficult and time-consuming to find. The collation of information should continue on an ongoing basis throughout the year to save time and money in the long-term.
- 1.3. Most of the information required in this year’s common proposal form was already provided in last year’s common proposal form. Firms are advised to check their completed forms from last year, and the documentation provided with that form.
- 1.4. If your firm now, or in the past, has been engaged in areas insurers consider to be high risk, such as conveyancing, wills and probate<sup>1</sup> and personal injuries, you should prepare an outline of the steps taken by your firm to minimise the risk of claims from these areas and demonstrate your firm’s experience in the relevant practice areas.

## Seek a copy of your claims history

- 1.5. The claims history of a firm should be obtained from the current insurer for the current indemnity period, and previous insurers of the firm for previous indemnity periods. The insurer is required to provide this information in accordance with the Participating Insurers Agreement<sup>2</sup>.
- 1.6. The claims history report from the current insurer should contain the following information:
  - (a) a summary of each claim made against the firm under each policy;
  - (b) the amount reserved by the insurer against each claim (including the basis on which the amount was calculated) and whether the amount includes defence costs; and
  - (c) information on any excess or deductible for each claim and any amounts paid out in relation to each claim (including any excess or deductible due from but not paid by the firm).
- 1.7. You should include with your claims history in the common proposal form:
  - (a) comments on the current status of any outstanding claims; and
  - (b) outline what steps have been taken to avoid re-occurrence of the problem.

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<sup>1</sup> Although some insurers consider probate work to be low risk

<sup>2</sup> Previously known as the “Qualified Insurers Agreement”.

As per the Participating Insurers Agreement for 2019/2020, insurers are required to provide the claims history report within 10 working days of receiving the request to do so.

### **Research the market**

- 1.8. You should research PII market conditions and enquire from brokers about what type of firms are covered by each insurer. Many insurers may have narrow underwriting criteria and will only quote certain types of firms.
- 1.9. Enquiries should also be made as to what are the key issues that suitable insurers for your type of firm will be looking for in assessing proposals.

### **Notification of claims by 30 November 2020**

- 1.10. All claims made against your firm and circumstances that may give rise to such a claim should be notified to your firm's insurer as soon as possible.
- 1.11. In particular, claims made between 1 December 2019 and 30 November 2020 (both dates inclusive) should be notified by the firm to their insurer by 30 November 2020. Special care will be needed in the weeks and days approaching 30 November 2020 and on the day itself to ensure that the deadline is not missed.
- 1.12. It is proper practice for firms to notify insurers of claims or circumstances during the year as they arise, not at the end of the indemnity period. Notifying all claims and circumstances at the end of the indemnity period is referred to as "laundry listing" by insurers, and is not looked on favourably.
- 1.13. In addition, your firm should ensure that it complies with any notification requirements set out in the insurance policy terms and conditions.
- 1.14. Firms are permitted to report claims or circumstances of which they are aware prior to expiry of cover to their insurer within a grace period of 3 working days immediately following the end of the coverage period.
- 1.15. Notifications of claims and circumstances to your insurer are vital due to the "double trigger" requirement as set out in the 'Important points to note' section of this guide.

### **Check if you are a distressed firm**

- 1.16. If insurers consider your firm to be high risk, or a 'distressed firm', this can lead to refusal to quote, higher premiums and/or higher excess. Indicators that you may be considered a distressed firm include:
  - (a) sudden increase in the frequency and/or severity of claims being made against the firm;
  - (b) deterioration in the firm's claims history;
  - (c) rogue fee earners in the firm;
  - (d) partners involved in fraudulent activity;

- (e) litigious nature of, and liabilities arising from, conveyancing work;
- (f) failure to engage and implement risk management strategies;
- (g) laundry listing claims at the end of the year;
- (h) delay in notifying claims (see “double trigger” section in the guide); and
- (i) difficulties with your firm’s last renewal.

1.17. If you are concerned that you may be considered to be a distressed firm, you should seek advice from your broker on how to make your firm more attractive to insurers, including early application, providing professional and in-depth information to reassure underwriters, commissioning an independent risk review to focus on problem areas in the firm where claims have arisen, identifying the underlying causes of claims, implementing risk management measures in relation to claims and ensuring that all claims and circumstances have been properly notified and accepted by the firm’s existing insurer.

### **Apply early**

1.18. Some insurers limit the amount of business that they accept and, when this limit is reached, they will stop offering cover. Therefore, common proposal forms should be submitted as soon as possible.

1.19. Early submission should also indicate that a firm is professional and well managed and therefore less likely to constitute significant risk. Making an application close to the deadline is not viewed favourably by insurers.

1.20. Wherever possible, firms should meet with insurers or brokers to address any key issues or concerns of the insurers or brokers.

1.21. If you deal with more than one broker, try to ensure that your proposal form is not sent to any particular insurer more than once. This can cause delay.

1.22. Ensure the common proposal form is comprehensively and accurately completed with all the required documentation. Ensure your responses are legible, accurate and well-presented. Try to avoid submitting a hand-written proposal form. The form is available in an editable pdf form on the Society’s website at [www.lawsociety.ie/PII](http://www.lawsociety.ie/PII).

1.23. Further information on completing your common proposal form application can be found in the *Common Proposal Form Guidelines* on the Society’s website at [www.lawsociety.ie/PII](http://www.lawsociety.ie/PII).

### **Follow up on your application**

1.24. Follow up with your broker on the status of your application once submitted, including the identities of the insurers the broker submitted the form to and the dates the form was submitted.

1.25. Respond promptly to any requests for further information or clarifications from your broker or insurer.

- 1.26. Seek regular updates from your broker on the progress of your proposal if they do not provide such information. Insurers must confirm they are willing to cover a firm and provide a quote within 10 working days of receiving a properly completed proposal form.

### **Accept quotation promptly**

- 1.27. If you receive an acceptable quote for cover, do not delay unduly accepting the quote, as the quote may be available for acceptance only during a specified period or may be withdrawn before acceptance. Do not delay accepting a quotation beyond close of business on 30 November 2020.
- 1.28. It should be noted that insurers are required to leave quotes open for a **period of not less than 10 working days**. This requirement was introduced in the 2012/2013 indemnity period and remains in place for the upcoming indemnity period. Make sure you confirm your decision to accept a quote before the offer expires.
- 1.29. Further information on factors to be considered when deciding whether to accept a quote can be found in the 'Guide to Brokers' section of this guide.

### **Risk management**

- 1.30. The Society strongly recommends that firms adopt formal risk management policies and procedures and notify insurers of the procedures in place. The risk management section of the common proposal form takes up a significant portion of the form, which reflects its importance to insurers.
- 1.31. Each insurer is expected by the Society to advise those firms currently insured by that insurer which the insurer believes would need to arrange for a risk management audit of their practice in order to facilitate the renewing of their PII.

### **If you are unable to obtain cover**

- 1.32. If it becomes clear that you are unable to obtain cover in the market, or it appears likely that you will be unable to do so, act immediately. As a matter of urgency, discuss the situation with your broker and contact the Society's PII helpline (see details in "PII Helpline" section below).
- 1.33. You should inform the Society in writing that you have been unable to obtain cover in the market before the 30 November 2020 and keep the Society updated on your progress to obtain cover.
- 1.34. You should contact the Special Purpose Fund Manager, DWF Claims (Ireland) Limited, 5 George's Dock, IFSC, Dublin 1 - phone 01 790 9444 or email [SPF@dwfclaims.com](mailto:SPF@dwfclaims.com) - in relation to applying to the Assigned Risks Pool ("ARP") for cover. Further information on the ARP can be found in the 'Guide to Special Purpose Fund' section of this guide.
- 1.35. Failure to obtain cover will result in the firm being declared a "defaulting firm" and the firm will be required to close if cover cannot be obtained. Further information on defaulting firms can be found in the 'Important points to note' guidance on the website.

## Confirmation of cover

- 1.36. Confirmation of PII cover for a firm must be provided to the Society within 3 working days of 1 December 2019. Therefore, confirmation of cover in the designated online form by your broker must be provided to the Society on or before close of business on **FRIDAY 4 DECEMBER 2020**.
- 1.37. The Society has a facility whereby brokers can furnish the Society, on behalf of the firm, with confirmation of cover via the Society's website. Such confirmation must include your policy number, and confirmation of cover cannot be provided until the policy is actually in place.
- 1.38. As your firm has a statutory obligation to ensure such confirmation of cover is provided to the Society on or before **FRIDAY 4 DECEMBER 2020**, you are responsible for ensuring that your broker provides the Society with confirmation of cover through the online system by that date.
- 1.39. You should also ensure that your broker has familiarised themselves with the online confirmation system, and has the necessary information to confirm cover online (such as their login and password) in advance of 1 December 2020.
- 1.40. It is noted that some firms who have confirmed PII cover to the Society during 2019 have a coverage period that extends past 30 November 2020. Such firms are still required to reconfirm cover for 2020/2021 with the Society by 4 December 2020.
- 1.41. Please note that your firm will not be reflected as having PII in place on the Society's "Find a Firm" online search facility until such time as the Society has received the required online confirmation of cover and a suitable disclaimer will be in place regarding the renewal period.
- 1.42. The online PII confirmation system will close for 2019/2020 indemnity period confirmations shortly.

## PII Helpline

- 1.43. The Society continues to operate the PII Helpline to assist firms in dealing with PII queries. The Law Society's PII helpline is available Monday to Friday 10am to 4pm to assist firms with PII queries at 01 879 8707 or [piihelpline@lawsociety.ie](mailto:piihelpline@lawsociety.ie).

## Renewal resources

- 1.44. Renewal resources for the 2020/2021 indemnity period are available to download from the Society's website at [www.lawsociety.ie/PII/](http://www.lawsociety.ie/PII/) and include the common proposal form, list of brokers, list of insurers, the Participating Insurers Agreement, the current PII regulations, Assigned Risks Pool and Run-off Fund documentation and documentation from previous indemnity periods. This area will be updated frequently as more documentation becomes available.