

Insurance Matters

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Provision of Services Regulations

In association with

Aon



The Law Society



January's edition of *Insurance Matters* contained an article providing guidance of what you should bear in mind when facing a claim or circumstances that may give rise to a claim against you. Part of the advice was not to "make reference to your Professional Indemnity Insurance".

Several firms found this strange advice, given the fact that it is a requirement to have PI insurance in place in order to practise and, particularly, given the EU Directive which came into force on 28th December 2009, requiring certain details of your PI insurance to be made available to your clients. Unfortunately the bulletin had gone to print before it had been identified that the Directive was entering into force.

DISCLOSURE OF PI INSURANCE DETAILS

The Law Society has recently issued a Practice Note on Provision of Services Regulations 2009, which sets out the information you should make available

- ◆ The name of your PI insurer
- ◆ The contact details of your PI insurer
- ◆ The territorial coverage of the insurance

This information can be provided in the client care letter, via the firm's website or made easily accessible at the firm's place of business.

This obligation is in addition to rule 18.1 of the Solicitor Indemnity Insurance Rules, which requires you to disclose certain information, upon request, in respect of the compulsory indemnity insurance limit.

So is this strange advice or common sense? No PI insurer should prevent you from following the regulations and you will not have prejudiced your right to indemnity by adhering to the new rules. However, it is not necessary to display either the primary or total limit of indemnity that you have purchased, nor do you need to make reference to any policy excess for which you are financially responsible. If you wish to disclose particulars of your PI insurance, over and above the minimum disclosures required by the rules and regulations, you should first obtain your insurer's agreement in writing.

It remains good practice, when communicating with a claimant or potential claimant, particularly when they are not your client, to refer to your insurers as little as possible. Even when it is evident that insurance is in place, it is well known that people are far more confident in pursuing a claim against you if they know an insurer is backing you. So, simple statements such as a promise to make a payment or agree to a settlement because you have insurance – "it's all covered" – should be avoided.

The Law Society has revised its Practice Notes on Client Care Letters (as well as Complaints Management), which should be considered in conjunction with the regulations. Full details can be found at <http://www.lawsociety.org.uk/product-sandservices/practicenotes.page>

If you are in any doubt as to how you should address the regulations, you should first contact the Law Society Advice Service or your broker. If you have arranged your professional indemnity insurance through Aon, you will be receiving a mailshot in the next few days providing guidance, together with a document to "make available" the required information at your premises. ■

Jill Gough *Claims Director*
Aon Limited

Do you have any comments? We would welcome your comments please email us at: insurancematters@lawsociety.org.uk

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