



The Law Society

## **2012-13 PII survey**

A survey of solicitors' experiences of the 2012-13 professional indemnity insurance renewal

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## **Key findings**

1. This document summarises a study conducted at the request of the Law Society by an external provider, IFF Research, and also sets out the Society's preliminary response. The study surveyed 600 law firms ranging in size from sole practitioners to firms with 25 partners about their experiences and perceptions of the 2012-13 professional indemnity insurance (PII) renewal process. The analysis is representative of the Law Society's member population by size (number of partners) and region. An equivalent survey has been conducted annually since 2008.<sup>1</sup>

## **State of market**

2. The survey found that the solicitors' PII market has remained relatively stable for three renewal cycles. The market share of individual insurers has remained broadly similar since 2010-11 and the market continues to be dominated by one insurer, XL, which insured nearly a quarter of the market. One new unrated insurer, Balva, obtained a large initial market share and was approached by 13% of firms surveyed for a quotation, and insured 9% of them.

## **Unrated insurers**

3. The number of firms using an unrated insurer has increased. In 2012-13, 16% of firms used unrated insurers; compared with less than one tenth (9%) that used unrated capacity in 2011-12. Similar to last year, small firms were more likely to use unrated insurers for cover; 22% of sole practitioners and 13% of 2-4 partner firms did so, compared with 5% of 5-10 partner firms and 1% of 11-25 partner firms.

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<sup>1</sup> Full versions of surveys are available at: [www.lawsociety.org.uk/pii](http://www.lawsociety.org.uk/pii)

## Premium levels

- There is a suggestion that the overall cost of premiums is falling. Two-thirds of all firms (67%) experienced a decrease in the cost of premiums for this year compared with last year's premium.

### Median premiums by size of firm

	Median 2011-12 Premium	Median 2012-13 Premium
<b>All firms</b>	<b>£24,988</b>	<b>£20,458</b>
Sole practitioners	£7,000	£5,743
2-4 partners	£50,234	£45,000
5-10 partners	£68,175	£71,600
11-25 partners	£122,829	£132,424

- The median percentage of gross fee income spent on PII cover for 2012-13 was 3.6% (slightly below the 5.4% found in 2011 and 5.1% in 2010). Similar to previous survey findings, there remains evidence to suggest that PII premiums present a greater burden for smaller firms, with sole practitioners paying a median 6.4% of gross fee income in premium.

## Use of market

- Half (49%) of all firms applied to only one broker. Almost all larger firms use a broker (99%), but the majority (70%) only used one broker. This demonstrates that larger firms are more likely to have a relationship with their PII broker. It is also a function of the greater number of tied arrangements at the smaller end of the market which requires firms to approach a number of brokers. For this reason, it is concerning that 44% of sole practitioners only used one broker and 13% of sole practitioners did not use a broker at all. Out of the sole practitioners that did not use a broker, the majority renewed with their 2011-12 insurer (31 out of 36 firms). The former result is also exacerbated by the finding that sole practitioners were more likely to agree on an execution-only service (42% of sole practitioners used execution only services compared with 14% of large firms). These findings suggest that, not only are some sole practitioners failing to use the market to their advantage, but they are not seeking advice from their broker about how to do this.
- Large firms were more likely to use a broker to approach more insurers. The mean number of insurers that firms were aware had been approached on their behalf (either directly or via a broker) was 1.4 by sole practitioners; 2 for 2-4 partners firms (up from 1.4 in 2011-12) and 5-10 partner firms; and 2.3 among firms with 11-25 partners. More than a third (37%) of larger firms approached 4 or more insurers via a broker, compared to only a fifth (18%) of sole practitioners and a quarter (25%) of 2-4 and 5-10 partner firms. One in six (16%) did not know how many insurers had been approached via a broker. This demonstrates that small firms particularly can still make better use of the available market.

## Factors affecting premium

8. Consistent with previous survey results, firms that had a claims history (i.e. had an insurance claim made against them and/or notified circumstances in the last 12 months) paid higher premiums on average than firms that did not by a considerable margin.
9. Only 3% of sole practitioners had experienced a claim against them in the last twelve months, and 12% had notified circumstances compared with 32% of 2-4 partner firms with claims (57% notifications), 55% of 5-10 partner firms (78%) and 67% of 11-25 partner firms (89%). A similar trend was observed with regards receipt of claims in the past five years. This finding is likely to be influenced by the fact that sole practices are more likely not to have been established for as long. 33% of sole practitioners had been in operation for less than 5 years compared to less than 10% of medium and large firms. Length of time practising has a direct effect on claims history.

## Renewal experience

10. There is increasing evidence to suggest that the renewal process is becoming easier for the profession. There has been a significant increase on previous years in firms reporting that they had not found the process difficult. This year only 17% of firms reported that renewal was 'very' or 'fairly' difficult, compared with 34% in the 2011-12 renewal). The likelihood of perceiving the process as difficult tended to increase with the number of brokers used.
11. The vast majority of firms (91%) applied for renewal with their 2011 insurer, and of these firms, 94% were offered cover for 2012-13. This is consistent with last year's results. Firms of 2-4 partners were slightly more likely to seek renewal (94% compared with only 87% of sole practitioners). 81% of firms offered a renewal accepted, while sole practitioners (86%) and larger firms (91%) were more likely to accept renewal offers than 2-4 partner firms (75%).
12. This year's survey also observed the market trend towards 'early renewals'. 35% of firms reported that they were offered cover from their current insurer via early renewal. Around a third reported incentives being offered to encourage early renewal, such as a claims amnesty or a longer policy.
13. Perhaps due to these offers, a greater proportion of firms had accepted an offer by mid-September compared with the previous two seasons (66%, as against 56% in both 2010-11 and 2011-12). Small firms were more likely than others to renew their insurance in August (27% of sole practitioners and 18% of 2-4 partner firms, as against 8% of 5-10 partner firms and 3% of 11-25 partners).
14. The fact that none of the firms surveyed were in the assigned risks pool (ARP) is unsurprising, given the very small number of firms who were unable to obtain insurance on the open market this year and chose to enter the ARP.

## **Level of knowledge of PII market**

15. While it is encouraging that many firms either asked brokers which insurers they would access (48%), or felt that they already had this knowledge (22%), it is apparent that there remains a degree of confusion about the extent to which individual brokers are tied to insurers, or whether they cover some or all of the market. In a quarter of cases (26%) firms incorrectly believed that their broker had full access to all insurers.
16. This information was not asked or known in a quarter (27%) of applications. Small firms were more likely to fall within this category: more than a third of sole practitioners (35%) and 24% of 2-4 partner firms, compared with 15% of 5-10 partners and 7% of 11-25 partner firms were unaware of the broker's markets. This reflects a greater understanding of the way in which the market operates amongst larger firms. If they were not already aware, larger firms were also more likely to ask their broker than smaller firms.
17. Small firms should make better use of [Law Society advice](#) that sets out broker's access to market, such as the Buyers' Guide and Insurers' Guide.

## **Level of satisfaction with brokers**

18. A new section was included in this year's survey to assess the level of satisfaction of solicitors with their brokers.
19. In general, firms considered that brokers had kept them adequately informed regarding the process of their applications (84%). This number was slightly less for sole practitioners surveyed, with only 77% believing that this was the case, while a fifth (21%) considered that this was not the case. Perhaps as a result of this perceived lack of communication, sole practitioners were less likely to be satisfied with their broker service overall than larger firms.

## **Factors influencing purchasing decision**

20. The cost of premiums was by far the most influential factor on solicitors' decisions about which insurer to use. Encouragingly, this year more firms valued existing insurer relationships (69% compared with 58% in 2011-12), as well as an insurer's financial security (75% compared to 63%). However, price remained the most significant contributory factor.
21. In light of the recent insolvencies of Lemma and Quinn, the Law Society has encouraged solicitors to carefully consider the financial security of insurers. We have published guidance on the [importance of an insurers' financial security](#) and will be aiming to increase the percentage of firms that consider this to be an important factor when purchasing insurance.

## Composite proposal form

22. Only 4% of firms used the Law Society's composite proposal form. One third (36%) said they chose not to use the form, while half (51%) were unaware of it.
23. Larger firms were more likely to have chosen not to use the form (50%). This is consistent with the rationale for designing the form; that the Society's composite form initiative was intended to benefit small firms. For this reason, the finding that smaller firms were much more likely to be unaware of the existence of the form is concerning (52% of sole practitioners and 53% of 2-4 partner firms were unaware).
24. Despite the low usage and awareness figures, the vast majority (93%) of firms that were aware of the form supported the initiative.

## Requests for commission disclosure

25. Larger firms were considerably more likely to have requested disclosure of commission (26%, compared with 8% of sole practitioners). Those firms that had agreed an advisory and execution service were more likely to report that commission had been disclosed (12% compared with 3% of firms with an execution only service).
26. The Society's advice encourages all of its members to ask their brokers what they will receive in commission from insurers this renewal season. The significant lack of transparency surrounding broker remuneration in the market is unacceptable. Solicitors have a right to request this information from their broker.

## Top-up cover

27. More firms elected to purchase top-up cover in 2012-13 (36%), this has increased compared with the findings from 2011-12 (19%). The likelihood that top-up cover was purchased varies considerably with size of firm. A small minority of sole practitioners (7%) purchased top-up cover compared with 94% of 11-25 partners. The median value of top-up cover also varied with firm size. The Society has recently published a guide to [Top-Up or Excess Layer cover](#), which may be useful to those firms considering whether or not to purchase additional cover.

## Restructuring and run-off costs

28. The median cost of run-off cover for all firms that were aware of the cost under their policy<sup>2</sup> was 225% of a firm's annual premium, with no significant variation by size of firm. Figures given for the cost of run-off by firms ranged from 3% to 638% of their annual premium, however, the majority of firms stated 200% or 300%.
29. Only a small number of firms (3%) had used the successor practice rules to merge with another firm in the last 12 months.

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<sup>2</sup> Just over two-fifths (43%) of firms stated that they were aware of run-off costs.

## Law Society's response

30. The Society is concerned that its message to the profession about making the most of the open market has not been heeded. Last year we published a PII Buyers Guide designed to assist firms to fully canvass their relevant markets and obtain independent broking advice. The Society has encouraged its members to ask if their brokers are approaching all available insurers. Therefore, it is disappointing that a large proportion of insurers in the market received applications from only a very small proportion of firms, and a quarter of firms with less than 11 partners only approached one insurer.
31. The Society is concerned about the increase in the number of firms relying on unrated insurers, particularly within the 1-4 partner segment, where there was increased availability of rated insurers for the 2012-13 renewal. Unrated insurers have written 12.5% of the total solicitors' PII market by share of premium. The 2012-13 survey findings suggest that this equates to 16% of the overall market by firm number and that this is made up of a higher percentage of small firms (22% of sole practitioners and 13% of 2-4 partners).
32. This suggests both that, in some fundamental respects, the market in its current form is not working for a segment of the profession and that a proportion of firms continue to make a purchasing decision based predominantly on price. This is not to ignore the economic pressures faced by the profession, but it is vital that decisions made are well-informed.
33. The Society has already embarked on a strengthened awareness campaign to ensure our members are aware of the importance of an insurers' financial security. We are advising solicitors to seek out an insurer's rating before selecting their provider because unrated insurers are an unknown quantity. An official rating from an independent ratings agency is an important objective measure of an insurer's financial security. While it is for the Solicitors Regulation Authority to address the systemic risk of insurer failure, which, if it occurred, could result in client detriment and exposure for principals, the Law Society is working hard to mitigate this risk and provide a stable market for solicitors.
34. We will also be looking to educate the 1-4 partner segment about the changes to the PII market for 2013. While the majority (69%) of firms were aware of the removal of the ARP, it is concerning that larger firms were more likely to be aware of the removal of the ARP than smaller firms. 11-25 partner firms were more than twice as likely as sole practitioners to feel that this change had been adequately explained to them by their broker or insurer (53% compared to 17%). The Society will be conducting education with its members specifically targeting small firms to ensure that they are prepared for these changes.

# Law Society's PII advice

## Guidance on financial security

**Importance of financial security** <http://www.lawsociety.org.uk/advice/articles/pii-insurer-insolvency/>

**List of insurers and ratings for 2012** <http://www.lawsociety.org.uk/advice/documents/pii-insurers--guide/> (PDF)

**Insolvency of a qualifying insurer practice note**  
<http://www.lawsociety.org.uk/advice/practice-notes/insolvent-qualifying-insurer/>

**Information for solicitors with Lemma policies**  
<http://www.lawsociety.org.uk/representation/articles/firms-claims-outstanding-lemma/>

## PII guidance

**PII practice note** <http://www.lawsociety.org.uk/advice/practice-notes/professional-indemnity-insurance/> – outlines the regulatory requirement to obtain PII and provides an introduction to the application process and market-related issues.

**Excess layer / top up cover** <http://www.lawsociety.org.uk/advice/articles/pii-excess-layer/> – This guide outlines what should be considered when assessing how adequate your PII arrangements are and highlights situations where it may be prudent to purchase excess layer cover above the minimum required by the SRA.

**Setting up practice – regulatory requirements** – a guide on the different types of legal practice (from sole practitioner to an alternative business structure) and PII tips for new firms: <http://www.lawsociety.org.uk/advice/practice-notes/setting-up-a-practice-regulatory-requirements/>

**Retirement calculator** <http://www.lawsociety.org.uk/advice/articles/pii-retirement-calculator/> – a tool to assist solicitors to work out an indicative figure that should be saved each year as part of their retirement planning to prepare for the likely cost of run-off cover under the mandatory PII policy.

**PII Buyers' Guide** <http://www.lawsociety.org.uk/advice/documents/pii-buyers--guide/> – a useful guide that explains the different types of intermediaries in the market and has tips to help solicitors get the most out of their relationship with brokers.

### **Transparency campaign**

<http://www.lawsociety.org.uk/representation/articles/broker-transparency-campaign/> – The Society encourages all solicitors to ask their broker what they are receiving in commission this renewal. This disclosure can be used as part of a 'conversation starter' about what level and type of service brokers are providing.

**Insurers' Guide** <http://www.lawsociety.org.uk/advice/documents/pii-insurers--guide/> – a non-exhaustive list of those insurers who are participating in the market each year. It sets out the segments of the market they are prepared to write and how solicitors can access them (i.e. directly or via a broker). This is updated throughout renewal so check out professional update or follow us on twitter @ **LSRegAffairs** to make sure you are using the most up-to-date version.

**Insurance matters**

<http://www.lawsociety.org.uk/advice/regulation/pii/documents/insurance-matters-issue-9/> – a free magazine with latest market intelligence

**FAQs** <http://www.lawsociety.org.uk/advice/articles/pii-faqs/>

**Information for firms ceasing to practice or having difficulties**

**Assigned risk pool & 2013 changes** <http://www.lawsociety.org.uk/advice/articles/assigned-risks-pool/>

**Closing down your practice: regulatory requirements**

<http://www.lawsociety.org.uk/advice/practice-notes/closing-down-your-practice/>

**Run-off cover** <http://www.lawsociety.org.uk/advice/articles/run-off-cover/>

**Further PII help & support**

[www.lawsociety.org.uk/pii](http://www.lawsociety.org.uk/pii)

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