

# Indemnity Insurance Disclosure Guidelines

9 December 2008

## Obligations under the Solicitors' Indemnity Insurance Rules

Under Rule 18 of the [Solicitors' Indemnity Insurance Rules \(SIIR\)](#), a firm and its principals are required, upon request, to provide their insurance details to any person (or their representative) asserting a claim, whether or not such a claim would or may be upheld. In the case of a ceased firm, the obligation rests with the principals in the firm immediately before it ceased. If a firm fails to provide the information requested, under delegated powers the Solicitors Regulation Authority (SRA) can, under Rule 17.5, exercise its discretion and provide that information.

However, such discretion is only usually exercised when the SRA has confirmation that the information has been requested from the firm in question and that the claim being asserted relates to matters within the scope of the Minimum Terms and Conditions of Professional Indemnity Insurance.

The importance of the date the claim is notified, or the date the insurer is notified, by the firm of circumstances that may give rise to a claim

Professional indemnity insurance operates on a "claims made" basis rather than a "losses occurring" basis. This means that responsibility for handling a claim lies with the insurer on risk at the time the claim is made against the firm, or when circumstances that may give rise to a claim are notified to the insurer by the firm, rather than with the company who was on cover when the alleged negligent act took place.

## What if a practice has ceased?

Where a practice has ceased and there is a successor practice, as defined in the Minimum Terms and Conditions appended to the SIIR, claims arising after the cessation will be dealt with by the qualifying insurer providing cover for the successor practice at the time the claim is made, or when the insurer is notified of circumstances that may give rise to a claim.

Where a practice has ceased and there is no successor practice, the qualifying insurer on cover at the date of closure of the practice will be liable to provide 6 years' run-off cover from the date of expiry of the policy. Any claims or circumstances notified after the firm has closed will be handled by the qualifying insurer providing this run-off cover.

For alternative formats, email [contactcentre@sra.org.uk](mailto:contactcentre@sra.org.uk) or telephone 0870 606 2555.

## How do I find out if there is a successor practice?

The SRA cannot make a declaration or a ruling as to which is, or is not, a successor practice in any particular situation as it depends on the precise circumstances at the time. However, using the SRA's records and any other information we are provided with, we will offer guidance.

## What the SRA will do if a firm or their successor practice refuses to provide a potential claimant with their insurance details

- We will check if the information has been requested from the appropriate firm and that a claim has been asserted. We require evidence of both the assertion of a claim and request for insurance details, such as a letter before action.
- If the information has not been requested we will write to advise what action should be taken.
- If the information has been requested, we will write to the firm outlining their obligations under the SIIR and the potential consequences of failing to comply with those obligations. We will give them a time limit in which to respond (usually 7-10 days). At the same time we will write to the claimant (or their representative) with a copy of the letter asking them to inform us if they do not receive a response.
- If no response is received from the firm, we will exercise our discretion and provide the relevant information.
- The firm's failure to comply with the requirements of the SIIR will be passed onto the Regulatory Investigations Unit of the SRA for consideration.

## If the firm has ceased

- The Client Protection Policy Unit will consider if there is a successor practice and, if so, direct the potential claimant to that firm. The claimant will then have to assert the claim against that firm as successor practice.
- If there is no successor practice we will disclose the details of the relevant insurer if we are satisfied there is a claim that may be covered by the Minimum Terms and Conditions of Professional Indemnity Insurance SIIR.

All queries for insurance disclosure should be directed to

Client Protection Policy Unit, SRA, Ipsley Court, Berrington Close, Ipsley, Redditch, Worcestershire, B98 0TD

or DX 19114 – Redditch

Email: [professionalindemnity@sra.org.uk](mailto:professionalindemnity@sra.org.uk)

Telephone: + 44 (0) 1527 504422