

Our ref:
Your ref:



The Law Society

Chris Kenny
Chief Executive
Legal Services Board
Victoria House
Southampton Row
WC1B 4AD

26 July 2010

Dear Chris,

RE: Professional Indemnity Insurance: SRA Draft Rules

I refer to Samantha Barrass' letter to you dated Friday 23 July 2010 which was copied to me.

The Law Society accepts that a decision on the compulsory Minimum Term and Conditions (MTC) of cover must be made very soon. In the letter I sent to you on 13 July it was made very clear that the Society believes that it is crucial from the profession's point of view that there is no avoidable delay in settling the minimum terms, since that would restrict the time available to make insurance arrangements for the forthcoming year. It is unfortunate that the SRA's proposal to change what has always been a feature of the MTC was not subject to proper consultation, so as to allow proper consideration by all relevant stakeholders.

Cover for defence costs related to disciplinary proceedings has been a well established part of the MTC ever since solicitors professional indemnity insurance was opened up to the market. The Society does not have a concluded view as to whether we support the SRA's proposal because we have not had sufficient time to consult our members. The SRA has not provided any evidence to suggest that it is a matter of urgency to remove cover for defence costs for the 2010/11 indemnity period. On the basis of our present understanding, although we accept there is a significant cost in a small number of cases, we do not believe that this element of cover is expensive when one considers it within the context of the whole of the professional indemnity insurance market. The SRA has not provided us with any figures to show how significant this issue is to insurers in financial terms.

The SRA should conduct a proper consultation on this matter unless they can demonstrate that a change is urgently needed. Genuine consultation helps to make regulation transparent, increases awareness and understanding amongst stakeholders of possible changes and gives the SRA the best possible chance of achieving effective outcomes. These benefits should not be discarded lightly. Failure to consult properly may also lead to an increased risk of legal challenge, particularly baring in mind the SRA Board's perceived conflict of interest on the matter.



As it is impractical for a proper consultation to happen before a decision needs to be made on the MTC for the 2010 renewal, the Law Society would prefer that any changes relating to this aspect of the MTC be made for the 2011/12 insurance period, as part of and subsequent to the SRA consultation on client protection arrangements, proposed for December 2010.

Yours sincerely

Russell Wallman