

Chris Kenny
Chief Executive
Legal Services Board
One Kemble Street
London
WC2B 4AN

Dear Chris

Changes to minimum compulsory Professional Indemnity cover required

I am writing to alert you to the Building Societies Association's (BSA) concerns about the recent decision taken by the Solicitors Regulation Authority (SRA) to recommend a reduction in the minimum level of Professional Indemnity Insurance (PII) cover for Solicitors to £500,000. I would urge you not to approve this change as we believe that doing so will have a detrimental effect on mortgage lenders, consumers and the housing market in general.

This change appears to have been rushed through in order to be in place by 1 October, the PII renewal date used by the majority of solicitors. In my view, the six week consultation period has been insufficient to allow for adequate consultation, and analysis of the impact of the proposed change. In fact, we are not aware of any assessment having been carried by the SRA as to the impact this will have on consumers and the wider legal profession.

A significant concern for lenders and consumers alike is that the "claims made" nature for PII means that it is the policy in place when the claim is made which pays out, rather than the policy that was in place when the transaction was undertaken. This means that a client may well have instructed a solicitor on the basis of a higher PII limit under the current regime but when a claim is made, discovers there is a lower limit of liability. Changing the rules retrospectively in this way will mean clients are disadvantaged by not only having a lower level of cover than they thought but additionally they will have paid for cover that they will no longer be receiving. This directly contradicts the SRA's claim that "we anticipate the overall cost of insurance to fall and therefore costs to consumers to be reduced".

We believe that the current PII limits have served the profession and its clients well, and see no reasonable argument for a blanket reduction for all firms. However, we do acknowledge that different types of legal work carry differing levels of risk. It could, therefore, be appropriate to allow a reduction in PII limits for firms undertaking low risk activities. That said, it is our firm belief that any firms undertaking conveyancing should continue to be subject to the minimum requirement of £2m cover (or £3m for incorporated firms).

Furthermore, there does not seem to have been any consultation with the insurance industry about the terms on which top-up cover may be available. It is very unlikely that the terms and conditions offered for this cover will reflect those that lenders are used to relying upon. The additional cost of these policies is also unknown and therefore there is insufficient evidence to assert that any cost benefit to consumers or reduction in premium will arise.

Finally, it wouldn't be unreasonable to expect some lenders to reduce the size of their legal panels to reduce both risk, and the administrative burden that this change will introduce. Clearly this goes directly against the objectives of the Legal Services Act as it could significantly reduce competition for conveyancing services.

For these reasons I would strongly urge you not to approve these changes.

I look forward to hearing from you.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Robin Fieth', is positioned above the typed name.

Robin Fieth
Chief Executive