

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



The Law Society

13 July 2010

Dear Chris,

Professional Indemnity Insurance: SRA Draft Rules

We spoke briefly last week about SRA's application for approval of some changes to the minimum terms for the professional indemnity insurance arrangements for 2010-2011. The application has now been published on the LSB's website.

This is a rather difficult situation. On the one hand, the SRA's application includes a proposed change to a significant feature of the arrangements – namely the cover for defence costs before the SDT in certain circumstances – on which there has been grossly inadequate consultation. On the other hand, 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 indemnity insurance arrangements for the forthcoming year. The matter is particularly sensitive as this year's renewal round is expected to be particularly difficult, and we are of course now entering the main holiday season.

We fully understand the thinking behind the proposal to remove cover for defence costs from the minimum terms. On the face of it, that provision provides protection for the solicitor rather than for their clients. However, this cover is a well established part of the minimum terms, which has indeed been in place since the new arrangements were introduced. Furthermore, it seems particularly unsatisfactory for the SRA Board to decide to remove that cover without any proper consultation when the SRA (as prosecutor before the SDT) may be thought to have a vested interest in making life more difficult for defendants before the SDT. It seems to us that that feature makes it particularly important that any decision to remove the cover should not be taken without full consultation.

We would therefore encourage the Legal Services Board to require SRA to consult properly on that aspect over the coming months before coming to a final decision on the matter, and to require SRA to reinstate the provision for defence costs for the purposes of the 2010-11 terms. That approach seems to us the course of action which will involve least risk in terms of potential challenges from solicitors on grounds of SRA's failure to consult.

However, if that is impractical, the Law Society would prefer LSB to approve the rules as proposed by SRA, rather than causing a substantial further delay in settling the terms on which PII will operate in 2010-2011.

We are, as ever, happy to discuss this further if that would be helpful. I am sending a copy to Antony Townsend.

Yours,

Russell

Russell Wallman
Director of Government Relations

Direct Line: 020 7320 5763
Direct Fax: 020 7320 5759
russell.wallman@lawsociety.org.uk

copy: Antony Townsend, CE, SRA