

Should solicitors change insurer?

Approximately two thirds of solicitors' firms in England & Wales renew their insurance on 1 October. Some may have an opportunity to save money by changing insurer, or may be able to 'upgrade' to one offering greater financial strength or better service.

While saving money in particular may be welcome news, in the past some firms have had their fingers burned by doing so: changing insurers carries risk, like jumping from a ship as the ship pulls away from the quayside.

New insurers will not have the same knowledge of the firm and the risks it presents which the incumbent insurer possesses. This may increase the risk of coverage disputes, and some insurers are more aggressive than others; while the SRA Minimum Terms and Conditions (MTC) may prevent them from declining cover altogether, they may in some cases be able to seek reimbursement or even an additional premium. Note that the protections in the primary MTC policy do not apply to excess layer policies.

Firms must have a comprehensive system for ensuring *all* staff (not just fee earners) are asked about circumstances which may give rise to claims so they can be notified to insurers, but this is especially critical where the firm is changing insurers: we have acted for many firms who fell foul of this.

While the firm may have notified insurers of circumstances giving rise to claims with a view to 'parking' claims with the incumbent insurer before a change, it may not always be possible to predict the precise nature of the claim which may ensue, and disputes may arise as to which policy applies. Care is needed in drafting notifications, and long experience of defending claims can provide valuable input.

Terms may not differ substantially, but there are still differences. Further, larger excesses may be imposed for known problem areas, whether general (such as claims for money paid in error to fraudsters) or specific to the practice, having regard to its claims experience.

Insurers may seek personal guarantees from principals in smaller firms to cover excesses and run off premiums.

Finally, the quality of claims handling varies. Which panel firms do the insurers use? They are not all created equal in our experience.

Ultimately, what you are buying is peace of mind, so discuss with your broker to ensure this is part of the deal - and make sure you are using a specialist professional indemnity broker.

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Legal Risk LLP are practising solicitors specialising in professional indemnity law and professional regulation. We have assisted many firms on notification issues, coverage (including many successor practice issues) and dispute resolution with insurers. www.legalrisk.co.uk

