



The Dorset Law Society
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Dear DLS Member,

SRA consultation on closure of the Solicitors Indemnity Fund

Where a firm ceases business without a successor practice, it must purchase six years of run-off cover from its insurer. The Solicitors Indemnity Fund (SIF) was created in the late 1980s to act as the solicitors' profession's own insurer in respect of risks which are notified after that run off cover ceases. The SIF provides run-off cover for perpetuity for solicitors and firms that have ceased to trade. This perpetual cover is without any requirement on the beneficiaries to pay any contributions.

In 2000, the profession voted to close the SIF and to move to the open market for its members' indemnity needs. Surplus contributions the SIF had by then collected, and investment income, were used to fund the handling, defence and settlement of claims which still fell to be dealt with by the SIF, principally:

- (a) claims made or intimated prior to 1 September 2000; and
- (b) 'run-off claims', made on or after 1 September 2000 in respect of principals who had retired before that date.

In 2004 the Law Society (TLS) decided to use part of the remaining SIF surplus to purchase additional run-off cover for solicitors who remained in practice after 1 September 2000. Part of the SIF surplus was used to purchase post six-year run-off cover (PSYROC), commencing on 1 September 2007 and running to 30 September 2017.

Under the Legal Services Act 2007, the SRA is responsible for decisions relating to indemnity as a regulatory function. Therefore, the SRA is responsible for deciding whether the SIF should close or whether PSYROC arrangements should be extended in some way. Extensions extending the provision of PSYROC through the SIF have been made by the SRA: 2012 to cover claims notified before 30 September 2020, in June 2020 for a year, and in June 2021, until 30 September 2022.

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PSYROC has been provided by the SIF, but the SRA have argued for some years that the cost of administering the scheme is disproportionate to the benefit offered. The SRA say that approximately 90% of run-off claims are made within a six year period, and that, on average, 31 claims have been made each year with a value of £34,600, including defence costs.

Members of the profession would need to pay a levy for any replacement for PSYROC if the SIF is to close. If claims were to continue at the current level, the cost of continuing a replacement PSYROC scheme has been estimated at £16 per solicitor each year in addition to the Practising Certificate fee and Professional Indemnity cover.

TLS oppose the closure of SIF on the basis that it is not in consumers' interests, nor that of the profession, to have uninsured professional negligence risks. TLS Sole Practitioners Group are particularly concerned that professional negligence claims in respect of closed unincorporated firms may expose former sole practitioners and partners to uninsured risk.

Your Committee will respond on your behalf of your Society. The consultation is on the SRA website: [www.sra.org.uk/sra/consultations/consultation-listing/solicitors-indemnity-fund/]

A Gazette article rehearses the main issues and the stance taken by the President of TLS: "SRA plans to end indemnity cover for retired solicitors"

[<https://www.lawgazette.co.uk/news/sra-plans-to-end-indemnity-cover-for-retired-solicitors/5110665.article>]

The consultation closes on 15th February 2022. You can respond individually or send your comments to me by 10th February so that they can be taken into account by the Society's response.

Yours sincerely

Martin Varley
Secretary

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