
Guidance Note Indemnity Insurance



20 March 2023 (version 4)

Costs Lawyer Standards Board



Professional indemnity insurance (PII) requirements

1. All Costs Lawyers regulated by the CLSB must have appropriate professional indemnity insurance (PII) in place. This is a condition of practising, as set out in Practising Rule 1.1(d) and Practising Rule 9.
2. Practising Rule 9 provides that you must:
 - practise with the benefit of PII cover at a minimum level of £100,000 (for any one claim), to include loss of documents; and
 - on an ongoing basis, assess all financial risk associated with your work and ensure that PII is in place in excess of the minimum at a level commensurate with that risk.
3. This guidance is intended to help you meet the requirements of Practising Rule 9. If you are a sole practitioner, or are responsible for purchasing PII for a firm or company, this guidance will be relevant to you.
4. Many Costs Lawyers are covered by their organisation's PII. It is your responsibility, as a regulated individual, to check that your organisation's PII policy adequately covers the work that you do.
5. If you practise in a firm or company that is regulated by the Solicitors Regulation Authority (SRA), this guidance will be less relevant to you. This is because, under Rule 3.1 of the [SRA's Indemnity Insurance Rules](#), all organisations regulated by the SRA must take out and maintain PII in accordance with those rules. If you work for such an organisation, you are unlikely to require additional insurance to meet the CLSB's PII requirements. However, you should confirm this with your organisation and ensure that the firm's PII policy covers your individual role and employment status.

Why you need to have PII

6. The reason we require Costs Lawyers to have appropriate PII in place is to ensure that you can meet any civil liability incurred in the course of providing regulated

services. This protects your business from financial harm, including potential insolvency, and ensures that compensation is available to your clients where needed. It is one of the ways that we build confidence in the profession, giving clients assurance that a regulated Costs Lawyer will be able to put things right if something goes wrong.

7. The CLSB is required to promote certain regulatory objectives under the Legal Services Act 2007. The requirement for all Costs Lawyers to have PII helps us to address the regulatory objectives of:
 - Protecting and promoting the public interest
 - Protecting and promoting the interests of consumers
 - Encouraging an independent, strong, diverse and effective legal profession
 - Promoting and maintaining adherence to the professional principles

8. Having appropriate PII in place will also help you meet your obligations under our [Code of Conduct](#). Paragraph 3.8 of the Code of Conduct requires you to maintain PII and provide evidence of that insurance cover if requested by a client, the CLSB, the Association of Costs Lawyers or the Legal Ombudsman. More generally, having appropriate PII in place will help you to:
 - act with integrity and professionalism
 - act in the best interests of your client
 - provide a good quality of work and service to each client

Choosing an insurer and policy terms

9. We have an open market policy with regard to Costs Lawyers choosing an insurer. This means we do not hold a list of participating insurers or have a recommended pool of insurers. This is intended to encourage competition in the market and give you the flexibility to choose a product that is right for you and your practice.

10. We encourage you to research the market and choose an insurer that can provide suitable PII to cover your regulated activities. You can consult the Association of Costs Lawyers for advice on identifying an appropriate insurance company or broker.

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11. Given the wide range of insurance products available and the different practising arrangements of Costs Lawyers, we do not specify minimum terms for your PII cover (other than the value of the cover and the requirement to insure loss of documents, as set out in Practising Rule 9). You should consider whether it is necessary for your PII to include terms that relate specifically to the type of work you do. For example, your policy might need to cover risks that are unique to the legal profession, such as monetary awards made by the Legal Ombudsman.
 12. You will also need to check that your PII policy does not contain restrictions that could affect your ability to provide regulated services. If the policy terms are inconsistent with your regulatory obligations, the policy will not be suitable for your needs. An example of this would be a policy term that prevents you from dealing with a complaint in line with your internal complaints procedure or prevents you from being open and honest with the Legal Ombudsman or the CLSB.

Run-off cover

13. Run-off cover provides insurance for claims made against you after you cease to practise. Having run-off cover means that both you and your clients are protected for a reasonable, but limited, period if you exit the profession.
14. Arrangements for run-off cover are not specifically regulated by the CLSB. However we recommend that you obtain PII insurance that will cover claims for at least six years after you cease to practise. You should discuss run-off cover with your insurer or broker, including run-off arrangements in circumstances where a successor practice takes over your client matters.

Amount of cover

15. We require you to have a minimum level of PII cover. The minimum level is established in Practising Rule 9 as £100,000 for any one claim. This level is broadly commensurate with the needs of a costs practice that carries out relatively low-risk work.

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16. We would emphasise that this is a minimum standard and that you must, under Practising Rule 9.1(b), assess the financial risk associated with your work and ensure that your PII cover is commensurate with that risk. In practice, this means that the majority of Costs Lawyers have PII cover that exceeds the minimum value; our data shows that over 90% of Costs Lawyers procure cover above the minimum level.
17. There are no hard and fast rules for gauging the amount of cover you will require, but the following section on risks associated with costs work might help you decide on the scope and level of PII cover that is appropriate for you. In principle, you must always ensure that:
- your insurance is sufficient to at least meet the CLSB’s PII requirements
 - your insurance will adequately cover the risks associated with your particular business activities
- You should discuss your activities and associated risks with your insurer or broker.

Risks associated with Costs Lawyer activity

18. Below is a list of factors that you could take into account when discussing your PII needs with your insurer or broker. It is not an exhaustive list; you will be best placed to assess the risks associated your individual practice.
- Consider the number of clients you have and their typical client profiles
 - Estimate the value of client work for your typical client and probable maximum loss if something went wrong
 - Consider the parties to whom you might be liable, for example you might be liable to an instructing solicitor and/or their underlying client
 - If you have been practising for a period of time, consider your previous claims experience, in particular the value and types of claims made
 - Identify the typical risks that are associated with Costs Lawyer work, as well as any that are unique to your practice, such as:

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- missing court deadlines or otherwise failing to comply with procedural rules, resulting in the imposition of sanctions
 - making an error in a bill, resulting in the client’s costs entitlement being undervalued
 - failing to identify and raise a valid point of dispute
 - not providing continuity of service, for example by failing to attend a hearing
 - underestimating costs when preparing a budget, limiting the costs that could be recovered by a successful client (or by their advisers, depending on the fee arrangement in place)
- Consider other potential losses that could be incurred by your clients in the course of their relationship with you, for example if you experienced a data breach
 - Consider how aspects of your operating model, such as supervision arrangements for junior colleagues, impacts the likelihood of a risk materialising
 - Assess the risks associated with any outsourcing arrangements you have in place for client work

Informing clients about your PII arrangements

19. You need to tell your clients about the PII arrangements you have in place. Our [guidance on client care letters](#) notes that you should provide information on your PII cover in the client care letter or in a separate document if more appropriate (see the table in section 8 of the guidance). Specifically, you should advise clients of your current level of PII (including cover for loss of documents) and that adequate PII will be in place throughout the instruction to cover the risks associated with the work.

Supervision of PII compliance

20. Unless you work in an organisation that is regulated by the SRA, we will ask you to provide evidence of your PII cover each year when you renew your practising certificate. We might ask for additional information about your insurance during the practising year, for example if there is a complaint.
21. While we proactively ask for this information once a year, you should ensure that your PII cover remains valid and appropriate throughout the practising year and inform us of any problems with obtaining insurance.
22. In addition to supervising your compliance with our rules, we also use the information you provide about your level of PII cover to monitor trends across the profession and ensure our rules remain fit for purpose.

PII cover when you are not actively practising

23. There might be periods of time when you hold a practising certificate but you are not actively practising as a Costs Lawyer. This might be the case if, for example, you take a period of extended leave, you are unemployed or you are transitioning from one job to another with a gap in between.
24. Practising Rule 9.1(a) requires you to “practise with the benefit of” PII cover. We interpret this to mean that you do not need to have PII in place in order to meet the practising criteria during any period when you are not actively practising.
25. If you are not actively practising when you apply to renew your practising certificate, and you do not have PII cover in place as a result, you should explain your situation in the free-text box in your practising certificate application. In most cases, you will still be able to renew your practising certificate.
26. In some cases, it might be appropriate to impose a condition on your practising certificate that requires you to notify us when you start practising again, so that we can check you have appropriate insurance in place at that time.

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27. You should note that this does not negate the need to take out run-off cover, as explained at paragraphs 13 and 14 above. Run-off cover insures against claims made against you after you cease to practise, but which relate to matters that arose during the time when you were practising.

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