



Policy Team
Bar Standards Board
289-293 High Holborn
London
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Sent by email only to policy@BarStandardsBoard.org.uk

22 March 2022

Dear Policy Team,

Re: Amendments to Professional Indemnity Insurance Minimum Terms of Cover

The Legal Services Consumer Panel (Panel) welcomes the opportunity to respond to the Bar Standards Board (BSB) consultation paper on its proposed amendments to the Minimum Terms of Cover (MTCs) for its mandated Professional Indemnity Insurance (PII).

Given that damages resulting from cyber incidents are a growing concern in the sector and the economy generally, the Panel agrees it is important to provide clarity to all parties as to what is covered by PII. Accordingly, it may also be useful for the BSB to consider tracking and sharing data on claims in this area.

The Panel is pleased to see that the BSB is committed to maintaining current levels of consumer protection and is broadly in support of the changes that are put forth. The Panel understands the amendments mean that the civil liability covered by PII will include “any liability arising from a Cyber Act or Cyber Incident” so that the previously implied coverage for cyber incidents will now be expressly included. Consequently, no consumer detriment is expected.

It is important to underscore that business disruptions will most likely have repercussions on consumers, often of a serious magnitude. Recently, the Panel has noted the effects of cyber attacks on conveyancing legal services providers and the accompanying delays suffered by their consumers, especially as conveyancing is an area of law where missing deadlines can have significant consequences. Litigation matters are similarly time sensitive and therefore we would like to highlight the fact that mandating first party coverage which reduces the risk of business disruption are in the interests of consumers generally and consumer protection. The only caveat to this is considering whether mandating the cost of first party coverage would have a significant effect on the price of services and whether there are any resulting access to justice implications.

As cyber risks to businesses evolve and become more commonplace, it is important for the BSB to keep an eye on how these risks affect consumers. Because it is an area that changes quickly, the Panel feels that barristers and BSB entities may not be best placed to judge their own risks and may benefit from a stronger regulatory approach. Subject to the caveat noted above, the Panel strongly supports requiring barristers and BSB entities to have first party coverage to ensure complete and meaningful protection for consumers in the event of a cyber incident.

The Panel is open to further dialogue on these matters.

Should you have any questions pertaining to the Panel's response, please do not hesitate to contact Heidi Evelyn, Legal Services Consumer Panel Associate.

Yours sincerely,

A handwritten signature in cursive script that reads "S Chambers".

Sarah Chambers
Chair
Legal Services Consumer Panel