

May 2021

# Solicitors Season Review

Lockton Review

UNCOMMONLY INDEPENDENT

**The hardening insurance market conditions continued for the spring renewal period with rates continuing to rise. October 2020 was tough, but the conditions that practices experienced leading up to British springtime 2021 were even tougher and I suspect much harder than anyone in the broker community had predicted. Insurers' appetites were suppressed and as we got closer to the 1st April renewal date, market conditions became progressively more challenging.**

In this review, we reflect upon the season to provide an overview of the market conditions, highlighting specific factors that influenced the environment. We analyse high-level data and provide some commentary as to our findings. We conclude by providing some insight on what we expect to happen in the forthcoming renewal period and how practices should prepare for this.

## Rationale to the conditions

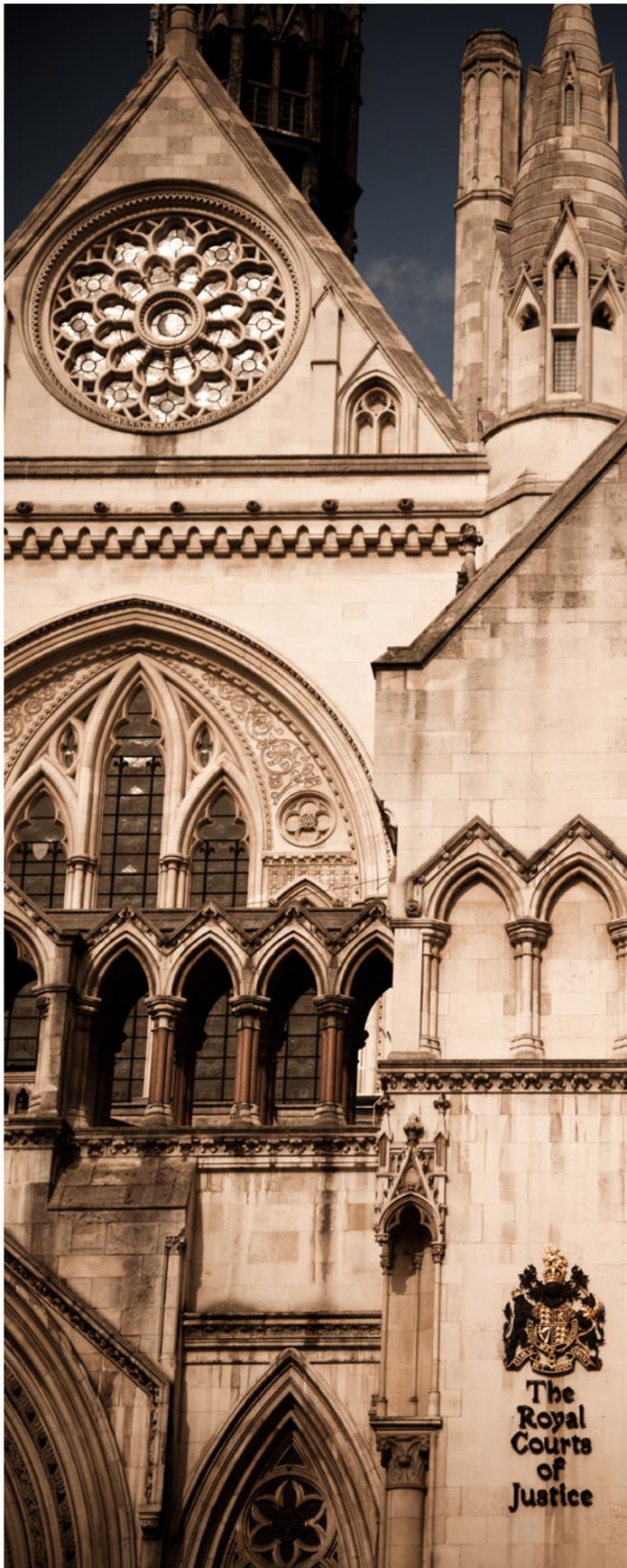
It's important to provide some context as to the changing insurance market conditions. Naturally, this influenced a large number of factors but none more so than claims. In our review of the October 2020 season, we explored how the claims activity served as the catalyst for the change in insurance market conditions. Sadly, the trend that we identified in October has shown no immediate signs of improvement. This claims activity and its volatility, acts as a deterrent for more capacity to enter the market place – and for the existing active insurers to write too much more business. Premium increases alone have not yet served as a strong enough attraction for new insurance capacity to have the desire to become a participating insurer.

The breadth of coverage provided under the SRA's Minimum Terms and Conditions (MTC) wording is incredibly broad. As such, it often acts as a financial guarantee rather than a traditional insurance policy containing more specific terms and conditions, along with numerous exclusions. As a result, this class of insurance for the legal profession of England and Wales is perhaps more difficult to underwrite and deliver a profit for, than other lines of insurance. It's a significant contributing factor that will further prevent new insurers from becoming active in this space.

The basic principle of insurance is that the premiums of the many, pay for the claims of the few. The reality is that the claims of the few have surpassed the premiums being collected. This has resulted in insurers applying increases to the rates that they apply to the vast majority of practice areas. Unfortunately, this means that even practices that had remained claim free were quite often impacted by increases imposed by insurers.

Whilst we have not necessarily seen a dramatic increase in the frequency of losses being experienced, the volume of claims has remained relatively consistent. However, there continues to be an upward trend in the severity of losses/claims experienced. Larger legal practices are typically involved in transactions of greater value, which means that if something goes wrong, it can be incredibly costly. It is important to note that larger than normal losses are currently being experienced by practices of all shapes and sizes which is having a significant impact on current insurance conditions.

The claims burn across the profession has deteriorated. Whilst this method takes a simplistic view, it does help us to understand the magnitude of the situation. To provide you with some context, you can take a time period of five years and add up the claims incurred position (paid and reserved numbers) over this time. You then divide this total claims incurred number by the number of years. And there we have the burn. It is absolutely true that quite a number of practices remain claim free. According to our data, approximately two thirds of the profession are not experiencing claims, but the third that are experiencing claims are exceeding the total premium collected by the insurers, hence the need for change.



We naturally cannot share specific numbers or intrinsic detail of individual claims and it is unlikely that anyone who has experienced a claim is going to publish this on their website. Nor can we imagine that any insurer is going to publish their claims, as this could have a negative impact on their respected businesses. So, how do you know that this is actually going on? Firstly, I think that it is fairly common knowledge that a huge number of settlements happen on or before the day that litigation gets to the steps of the courts, so unfortunately court records will not provide us with sufficient evidence. We do however know that insurers are commercial enterprises and that typically, their number one objective for transferring risk is to make a profit for their organisation. If these insurers were all making money then why would so many decide to withdraw from writing this class of insurance? New industries have been created to encourage claims and a number of these are specifically targeting the legal profession.

Given the volume of claims undertaken across the legal profession and the values involved, conveyance work is naturally a big driver for claims activity. However, not all claims emanate from conveyance work. The harsh reality is that no practice area is immune from claims activity, and whilst a number of practices have a totally unblemished claims record, unfortunately not every practice has been as fortunate.

Contentious work is growing across the legal profession and in particular, contentious probate. Naturally, this means that practices are getting probate work wrong. When you factor in that, according to the Office of National Statistics, pre-pandemic wealth and assets have been steadily increasing, it stands to reason that getting this wrong could prove incredibly costly. With modern day families increasing in their complexity, this is becoming a much more difficult practice area and perhaps one where more care needs to be taken at the outset in the drafting of a will.

The insurer's actuaries will set their base pricing primarily upon the empirical data from claims that they have already experienced. This means that the claims experienced by the profession will have an impact on most practices, even if your practice has remained claim free. The actuaries will also make some consideration and prediction from the following factors: social, economic, legislation and regulation. These factors, even if they do not always impact directly upon the insurers pricing, are likely to influence the appetite of the insurers.

Underwriters will then do their best to assess presentations and effectively risk select, with the ultimate aim of making a profit for their company. Despite their very best endeavours, no active PI underwriter will be free from underwriting a client that has experienced claims. They totally understand that this is what they do – and they accept the transfer of risk. However, they cannot be reckless with their company's balance sheet either, which presents quite a difficult conundrum for them.

## Other influencing factors

There are a number of influencing factors beyond claims activity that impact upon the market place. These include the regulator and its response to the requests of insurers in respect of the policy wording; the economic environment; Stamp Duty Land Tax (SDLT); holiday; and silent cyber. We look to summarise these below.

## Economic environment

The pandemic and Brexit have each had an impact on the economic uncertainty. Despite the air of optimism around a deal with the European Union, and the enforced restrictions easing so that our lives are gradually returning to normality, the reality is that the economic environment is still incredibly fragile.

The vaccine rollout has naturally lifted spirits and many economists seem to be relatively buoyant, some even suggesting that the UK economy is subject to a V-shaped recovery. However, until there are more significant signs of improvement, we do not believe that insurers will relax their very cautious approach. Even if they do, it won't result in any significant improvements to their pricing for some time, as we have reported on the fact that the claims picture is quite bleak. This is because the claims experienced by the profession are exceeding the premium collected, so the insurance market was forced to implement pricing adjustments to survive.

History tells us there are certain practice areas that are more susceptible to recessionary losses, whereas other perhaps thrive. Naturally, practices with such exposures will be assessed with caution. This further evidences the importance and reasoning as to why you need to provide a detailed presentation of your practice.

## SRA impact

The SRA as yet, have still not been willing to make any concession to the MTC wording that the participating insurers must provide coverage upon.

Ultimately, insurers would like to ensure that they receive consideration (e.g. payment) for the transfer of risk. They would also like any claim payment that they have to make, to be net of any excess contribution that is due from the policy holder. Both requests seem reasonable, and whilst I totally appreciate that the SRA must look to protect the interests of the general public, having insurers around to pay claims is also an absolute necessity. So, something needs to change.

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*The extensions that have been announced to the Stamp Duty Holiday until the end of June for properties of £500,000 in value – and the end of September for properties up to £250,000*

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If insurers are paying out claims whereby they have not received any payment, it will be other policy holders who suffer in the longer term, so the interests of the profession and the insurers are aligned. If a concession in the wording is not possible, that should not mean we ignore this issue, and perhaps we need to be creative. Should the introduction of a bond or something similar be introduced to cover the potential cost of run off? Naturally, this would need to be assigned to the insurers annually and would need to be transferable at each renewal to allow for policy holders to switch insurers at renewal should they wish to. At the closure of a practice, if the run off premium is not paid to the insurers, the insurer would then be entitled to the monies contained in the bond. If the run off is paid for then the proceeds of the bond are returned to the owners and could perhaps contribute to the retirement pot.

The current stance being adopted, has resulted in some insurers requesting that personal guarantees are signed from the business owners, which could make succession planning more difficult. Other insurers are requesting that all Equity Partners sign the acceptance form confirming their awareness of the provisions and their obligation, contained within the MTC, regarding excesses and any premiums that may fall due. All of which could well be avoidable if some meaningful concession and/or an alternative mechanism were introduced to support the current infrastructure.

The consultation on cyber is not far reaching enough for this extremely important issue to be addressed soon. We would hope that the SRA take note and consider bringing about some change, as positive progress could help to improve the market conditions and encourage new capacity to enter the market place.

## Stamp Duty Land Tax (SDLT) impact

While this SDLT holiday has had a positive impact on the volume of conveyance work, insurers have a number of concerns. Notably, a greater volume of conveyancing work being undertaken increases the likelihood of more claims materialising. There are also the increased risks that a fixed deadline creates, especially if this results in fee earners rushing work, or worse – such as circumnavigating the risk management steps that you have in place. Another risk could be to forget to appropriately warn clients that you cannot guarantee that the transaction will be concluded in time, especially as there are a number of factors that mean the solicitor has no influence on the speed of its outcome.

In light of this, we are aware that until the SDLT holiday has passed, they will not be reevaluating their ceiling tolerance that they have introduced for new business risks with conveyance exposure. The extensions that have been announced to the Stamp Duty Holiday until the end of June for properties of £500,000 in value – and the end of September for properties up to £250,000 – mean that it is increasingly unlikely that the current ceilings some insurers impose for new business with an exposure to this practice area will alter positively, in time for the forthcoming October renewal season.

## Silent cyber

Whilst theft of client funds by way of a ‘cyber-attack’ is much publicised and often receives headline exposure, cyber incidents take a number of forms. The profession holds enormous amounts of data and within this lies much sensitive client information. Any breach of a firm’s IT system will likely result in a data breach which alone, could well result in a financial loss to a law firm’s clients. In this situation, the profession historically has been able to rely on PI Insurers to respond to the losses that clients suffer as a result of such a breach. It is precisely this type of loss exposure and “unintended” inclusion of cover that insurers have reviewed, and the introduction of such affirmative language has been implemented to allocate where exposures lies accordingly, and for insurers to be clear on this point.

From 1st January 2021, all new excess layer policies for solicitors typically had the introduction of a new clause. This meant that separate PII policies purchased in addition to the compulsory coverage, were now affirmative in their language, on not providing this coverage going forward.

Whilst a cyber-policy may not address all potential claims, it is strongly recommended that you investigate the possibility of obtaining this coverage from your Lockton representative.

At the time of writing this article, there has been no agreed change to the MTC (Compulsory layer) and any clause added by an insurer to the compulsory primary layer cannot be more restrictive. However we are aware that the two leading insurance market bodies, the London Market Association (LMA) and International Underwriting Association (IUA), are in discussions with all of the major regulators (including the SRA) to bring about some change. The SRA has just released an open consultation which runs until 25th May 2021 and we urge the profession to play an active part and respond to this.

The results could have either positive or negative ramifications. If the SRA’s proposals are agreed, client and practice protection will still be afforded. The negative is that a failure to reach an agreeable compromise or solution could result in insurers exiting the class or further suppression of insurers’ appetites.

## Solicitors Indemnity Fund (SIF)

Whilst not an influencing factor on the conditions, we are acutely aware of the concerns that a number of retired practitioners have in response to this issue. To explain: after your six-year run-off period, any claims that materialise have so far been picked up by the residual monies left from the old Solicitors Indemnity Fund. The Law Society have successfully had this extended twice already but from midnight on 30th September, the Solicitors Indemnity Fund will stop accepting new claims. This could result in personal liability, should claims materialise post a practices run off. The Law Society posted some guidance on 22nd March 2021 in respect of this, see link below.

Some of their suggestions unfortunately will not work in practice, most notably because some of the insurers who would have insured practices in run off are no longer around. A number of these were also unrated capacity, making these businesses insolvent. So, if certain practices had claims during their run off period they would have had to seek support from the Financial Services Compensation Scheme (FSCS). This would mean that on top of their policy excess, these closed practices would also be contributing to 10% of the value of the claim.

Not so long ago, the regulator was lobbying to reduce the period run-off. This seems absolutely ridiculous, given that according to the guidance note issued by the Law Society, 11% of claims are made after the six years of run off has ended.

This could impact upon any practitioner and is not limited to the smaller firms. History has sadly taught us that no practice, regardless of its size, is immune to failure. Adverse claims and regulatory intervention could happen to any practice and we believe that a solution needs to be found. For this to happen, the profession and the regulators (SRA and ultimately LSB) will be required to agree to implement change.





## Overview of the market

We estimate that around 25% of the legal profession of England and Wales renew around this time. So, depending on your data source, somewhere in the region of 1,800–2,500 legal practices are currently looking to renew their professional insurances. When you consider that the vast majority of presentations were dated and received within the last four weeks leading up to their renewal, it's clear that this can create a logistical nightmare for insurers. However, this should highlight the importance of providing a quality presentation that's also delivered in good time.

Despite all of the warnings, the spring renewal period was late. A significant proportion of the profession simply did not get their presentations into their broking representative in adequate time. This may have had an impact on the end result, particularly as rates typically got worse. One leading insurer who refused to write any new business leading up to October 2020 was back open but like many of the active insurers, quite selectively. Despite this good news, options for certain profiles of practices were further reduced during this renewal period, due to more changes in insurers' appetites.

The working layer – the excess layers directly above the primary limit of indemnity – faced further increases. The size and risk profile of a practice, including their claims performance, dictated whether or not any alternative options were even on the table, let alone creating some rating/pricing tension to improve the outcome.

## Changing appetites

Each year and renewal period, many insurers will not only adjust their rates but also their appetite for business. When we reported in October, insurers were adopting caution, what with the continued economic uncertainty caused by both Brexit and the pandemic. Despite a deal being agreed with our European neighbours and the UK government's successful vaccine programme rollout, insurers were adopting even greater caution. Their appetite for new business was restricted further with a select number of insurers. Whilst a change in appetite typically impacts upon an insurer's view on new business, there were many occasions when a risk profile changed throughout the policy period. This has resulted in a firm having to source a new insurer, and sadly in a few circumstances where no new insurers were willing, some were forced to close their practices.

Just like in the October renewal season, extensive information requests continued. As a minimum, insurers expected a presentation to include a proposal form and insurer claim summaries that were legible and recently dated, along with a Covid-related questionnaire. If there were claims on the record or open notifications, a narrative was expected to be included within the presentation. If additional layers were purchased above the compulsory primary limit, then even more information may have been required, with some of these insurers still requesting an additional questionnaire to be completed.

Insurers adopted extreme caution, and we often had to overcome many reasons for the underwriter not to write a particular risk. Ceiling for property exposure remained in place or in some cases, reduced further. Insurers seemed reluctant to present terms on practices with a profile dominated by practice areas that would be most susceptible to being negatively impacted by recessionary losses.

Naturally, all practice areas deemed to be higher risk faced the greatest scrutiny. Thus Commercial, Litigation, Matrimonial, Trust Wills and Probate, Personal Injury and Property related practice areas were of particular interest. Questions were asked, such as – who are your typical clients and what are your highest and typical contract values? Depending upon their answers to these specific questions, it could influence the insurer's decision on whether they looked to off-set some of the risk, for sharing the reward of the premium collected.

We have previously reported on the depositor (buyer) funded development work, which understandably remains problematic for many insurers, but there are increasing concerns with new build development exposures too. The vast majority of these are with well-established, reputable developers with buyers' deposits protected by NHBC. So, why would they be overly concerned? The reason is the potential sideways exposure this type of work can create. When practices are working on multiple units in a single development, if an error is made on plot 1, it is not uncommon to see the error repeated multiple times. This could, when aggregated, result in very costly claims payments.

The forthcoming personal injury reforms were a consideration for some insurers. If a practice was heavily reliant on low value RTA work, they naturally had some concerns about what the future might hold for them and may not have presented an alternative. Insurers were naturally inquisitive as to what potential changes might be considered and challenged how resilient their business models were. When we had the appropriate and considered responses, this challenge from insurers was quite often overcome.

### Other considerations

- Governance and supervision – Having a fragmented workforce can create significant challenges, so this is naturally a concern for insurers whose capital is at risk if claims materialise. Details of how your business has adapted, along with the IT infrastructure that allowed you to maintain the quality procedures that were in place pre-pandemic, are both crucial. The oversight of Senior Associates and Partners is just as important to insurers as that of younger or more junior associates.
- Associate wellbeing has become an increasingly common factor under consideration by insurers. Whether or not practices do this through effective management of associates' case loads, the general support offered is of real interest, as this gives insurers an insight into what type of practice you are. They acknowledge that any business needs to capitalise on opportunities – but this cannot be at any cost. Associate wellbeing has to be a key consideration, as failure to provide sufficient support could have a detrimental effect on your claims record and ultimately impact negatively upon the balance sheet.

- Succession and having a plan for the future was another key consideration for many underwriters, regardless of the shape and size of a practice. If they were led by an ageing sole practitioner or an ageing leadership team, insurers wanted to know details of the future plans for the business.
- Behaviour was another consideration from insurers and this takes a variety of forms, including but not limited to:
  - **Informing Insurers** – You have an obligation to advise your insurer(s) of any significant changes to your practice during the policy period. This could include: new practices area to be undertaken, new fee earners or regulatory/ risk hires and failing to report these could result in the underwriter losing trust in you.
  - **Claims** – If you have been unfortunate enough to experience claims, it doesn't mean that you will not source insurance but there is an expectation of cooperation. This cooperation comes in the form of supporting the insurer's claims team in defending the claim, by providing the requesting evidence and supporting documentation in a timely manner. Payment is also vital. If an indemnity payment has been made your policy excess could be due, as could VAT contributions, so insurers expect these to have been made swiftly.

We have highlighted the fact that claim values are getting bigger, so it stands to reason that co-insurance has become increasingly popular amongst the leading active insurers. This is a way in which insurers can manage the potential downside of claims materialising by sharing the risk with one or more insurers, ground up. For larger practices, typically those with 11 or more partners, certain insurers will only look to offer terms on a co-insured basis and this includes long-standing renewal clients.

A key characteristic of a "Hard Market" would normally be insurers presenting more restricted policy terms and conditions. The good news for the legal profession is that the SRA's MTC prevents this from happening. However, insurers did also look to impose numerous changes to excess (retention) structures, as they cannot restrict the coverage being provided. With rates increases being imposed, this was also a way of helping us to negotiate improvements upon proposed premium terms for those practices willing to share a little more of the risk with their insurers, by way of assuming a higher excess.

Greater scrutiny and underwriting discipline was applied throughout, despite the increased volume of information required by prudent underwriters who wanted to know more. Financials were analysed in greater detail and they were focussed on your awareness of risk and how this is actively managed within practices.

### Challenging trading environment

The pendulum of power is firmly with insurers which makes negotiations far more protracted and much tougher, especially given the enforced working environment. The government's response to the pandemic has meant that the vast majority of the insurance market were working remotely during this renewal period, removing any traditional face-to-face engagement. Technology has allowed us to trade and still service our clients effectively and we have all had to become far more accustomed to video conferences. Unfortunately however, most processes are generally taking longer, which is not helped by everyone's fragmented work force.

Despite what you may think, the underwriters that we trade with are human, with many of them having to face the exact same challenges that you and I and a number of your fee earners were faced with. That includes juggling workload with home schooling at least until 8th March 2021 (22nd February for those in Wales), when restrictions began to ease.

With insurers adopting greater caution, peer reviews continue to become more common across each of the insurers, particularly when assessing new business enquiries. A peer review means that more than one underwriter will be assessing your renewal presentation and that the insurers will come to a decision by committee. This should provide further justification to make a real effort with your renewal presentation.

An undated proposal form or one that is dated fairly close to its renewal date is likely to be viewed quite negatively by insurers, as underwriters may consider this to be a reflection of the way in which you conduct your practice. If there is good reason, you can overcome this issue but unfortunately, being busy is not itself considered by many insurers to be an acceptable reason for you not to address your insurance requirements in good time.

With time being a precious commodity, a number of insurers were again reluctant to be used as a stalking horse. Many alternative insurers would expect to know that renewal terms have been offered at the very least, before they would consider putting forward an alternative. If they are to dedicate a considerable amount of their time to assessing your presentation, they want to know that they have a chance of securing your business.



## Statistics

We have clients that renew their professional insurances every month of the year, but there are two peak periods during which we have a significant concentration of clients renewing: these are the spring renewal period and what was the traditional renewal period in October. The data sample used for this period is based upon us placing more than 533 practices in spring 2021.

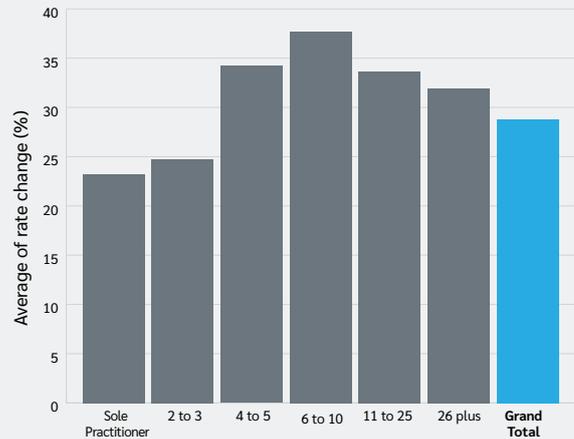
During the spring period, we introduced over £47m of gross written premium into 14 different leading compulsory primary insurers. When looking specifically at the various permutations of co-insurance placements, delivering 28 unique solutions for our existing clients during this period compared to the 30 unique solutions that we delivered during October 2020.

We were absolutely delighted to be able to welcome 112 new clients during this period. These new clients were placed with 12 different leading insurers and this is a 20% increase from October in the number of alternative insurers that placements were made into, evidence that despite the challenges, the market was still active. We will not be including these practices in much of our analysis as we do not have the comparable data, but they can be used in our analysis next year.

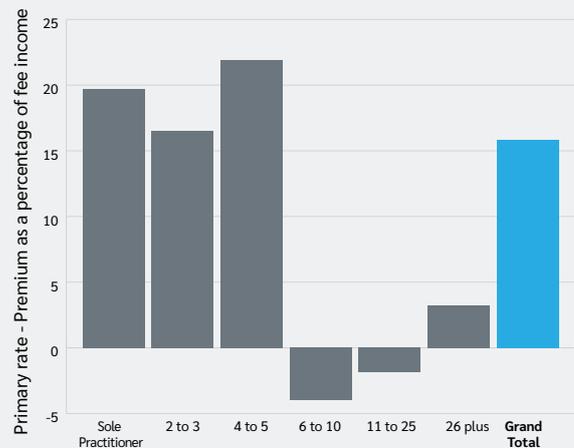
When reviewing the statistics, it is important to note that each firm's risk profile may change during a policy period. This means we are not always comparing like-for-like scenarios when we reflect on what we experienced during this renewal period. Fees can naturally fluctuate, new partners or fee earners may have joined, others may have exited, additional practice areas could be added and existing practice areas may have increased or decreased during the period as well.

Please note, it is also important to appreciate that the statistics do not include a small number of clients that would have distorted the results significantly.

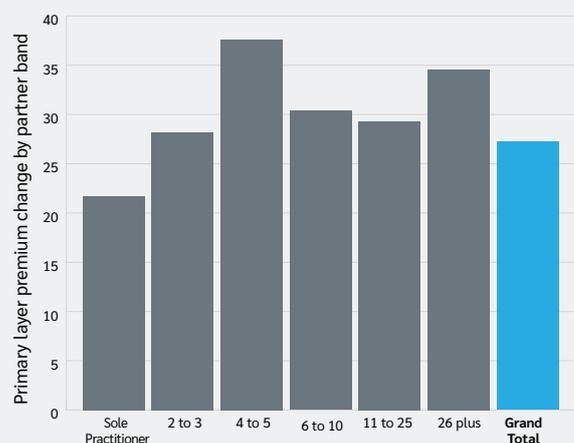
### Primary rate



### Fees



### Primary Premium



## Fee income

When reviewing the practices that renewed during this period similarly to what we witnessed in October, on average fee income was up 15.86% for their last annual reporting period. The trend was that those undertaking property work had experienced a lower increase in their fee income than those practices that did not. Practices with five or fewer partner numbers were the highest performers in percentage increase terms, with practices of six or more partners experiencing a reduction of no more than 4.01% on average. This compared with the previous renewal periods of April 2020 (9.56%) and October 2020 (11.84%).

## All clients – regions

There were some standout regions in terms of fee growth with London firms continuing the trend identified in October, followed by the South East and then the North East. When looking at firms that undertake conveyance work, the South East overtook London with the North East remaining in third.

## Claims activity

66% of clients have been claim payment free in the last six years, down from 69.1% from October but up from 58.8% in April 2020.

This rises to 85.5% if no conveyance work is undertaken within the practice, very close to the 86% reported in October and 85.3% in April 2020. The best performing firms from a claims perspective are smaller firms with sole practitioners and 88.4% of sole practitioners have not had a claim payment in the last six years. This is down from 89.9% for those that renewed in October and 94.7% in April 2020.

For all categories above six partners, each segment is performing below the average, to the extent that in many cases two thirds or more practices have experienced a claim payment in the last six years.

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## Rate & premium increases

### Compulsory primary limit

The average primary rate increase was 26.8%, which resulted in an average premium increase of 27.23%. This was up from 21.4% and 17.4% respectively in October 2020, as well as 15.06% and 17.36% respectively in April 2020.

On average, practices with over four partners experienced a 30%+ increase in rate, resulting in a similar increase in premium spend.

Although the worst impacted firms during this period were larger practices, this does not necessarily paint the full picture as it needs to be contextualised with where people started from. Smaller practices typically pay a higher rate on their fee income than larger practices, which benefit from economies of scale. This ultimately results in better margins for those businesses from their PII spend. As highlighted above, the fact that fees have increased by over 15% on average needs to be taken into consideration.

For practices that were claim free, the average rate change was 19.61% up from 17.9% in October, and 14.89% in April 2020 which resulted in a 22.90% increase in the average premium change, up from 13.1% in October and 17.31% in April 2020. Those with claims experienced an increase in rate of 41.01%, up from 29.4% in October and 15.31% in April 2020.

### Working layer

This is the first additional layer of coverage directly above the compulsory primary limit of indemnity.

Severity of loss has been increasing which has resulted in multiple claims eroding the compulsory primary insurance (£2,000,000 or £3,000,000 depending on your status) and impacting on this layer of insurance. This has resulted in competition for this business being incredibly limited, as many insurers have stopped writing this aspect of coverage due to the increase in severity of losses experienced. Some reinsurers have now dictated to their insurer partners that they can no longer write any excess of loss insurances unless the attachment point of excess is £10m or above, for them to be willing to reinsure this exposure.

Despite rate increases in April 2020 of circa 75%, and circa 63% in October 2020, rates have continued to rise for this layer of insurance. The average rate increase was 35.75% which resulted in a similar premium increase. The worst impacted were again larger practices, particularly those with £10m or more in fee income.

The additional cost for this layer of insurance has resulted in some practices re-evaluating the limit of indemnity that they purchase, sometimes taking the decision to reduce the limit they have previously carried.

### Co-insurance

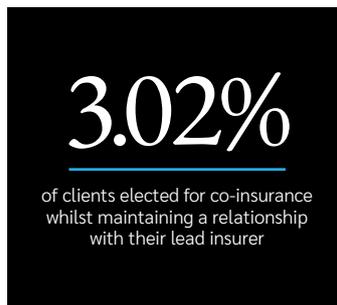
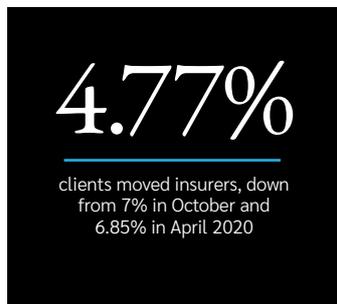
Co-insurance has become more popular as the severity of claims grow and insurers become increasingly cautious. During the spring renewal period, 5.5% of our clients were placed on a co-insured basis which is 10% up from October and 204% up from April 2020, when only 2.7% of clients were placed on co-insurance basis.

The placements involved numerous different placement structures, from primary £2m or £3m depending upon status, to £5m and £10m programmes. These placements involved 14 leading insurers with 28 different permutations and no more than three participants on any one placement. This is up from 8 leading insurers actively writing co-insurance in October 2020 and just 5 in April 2020. Co-insurance is becoming more frequent in the placement for practices of four or more partner practices, but it is increasingly more common for those with 11 or more partners, in part due to the potential downside of claims.

### Retention

We are incredibly proud and delighted that our client retention rate remains extremely strong – potentially market leading – with more than 97% of our clients continuing to select Lockton as their chosen representative.

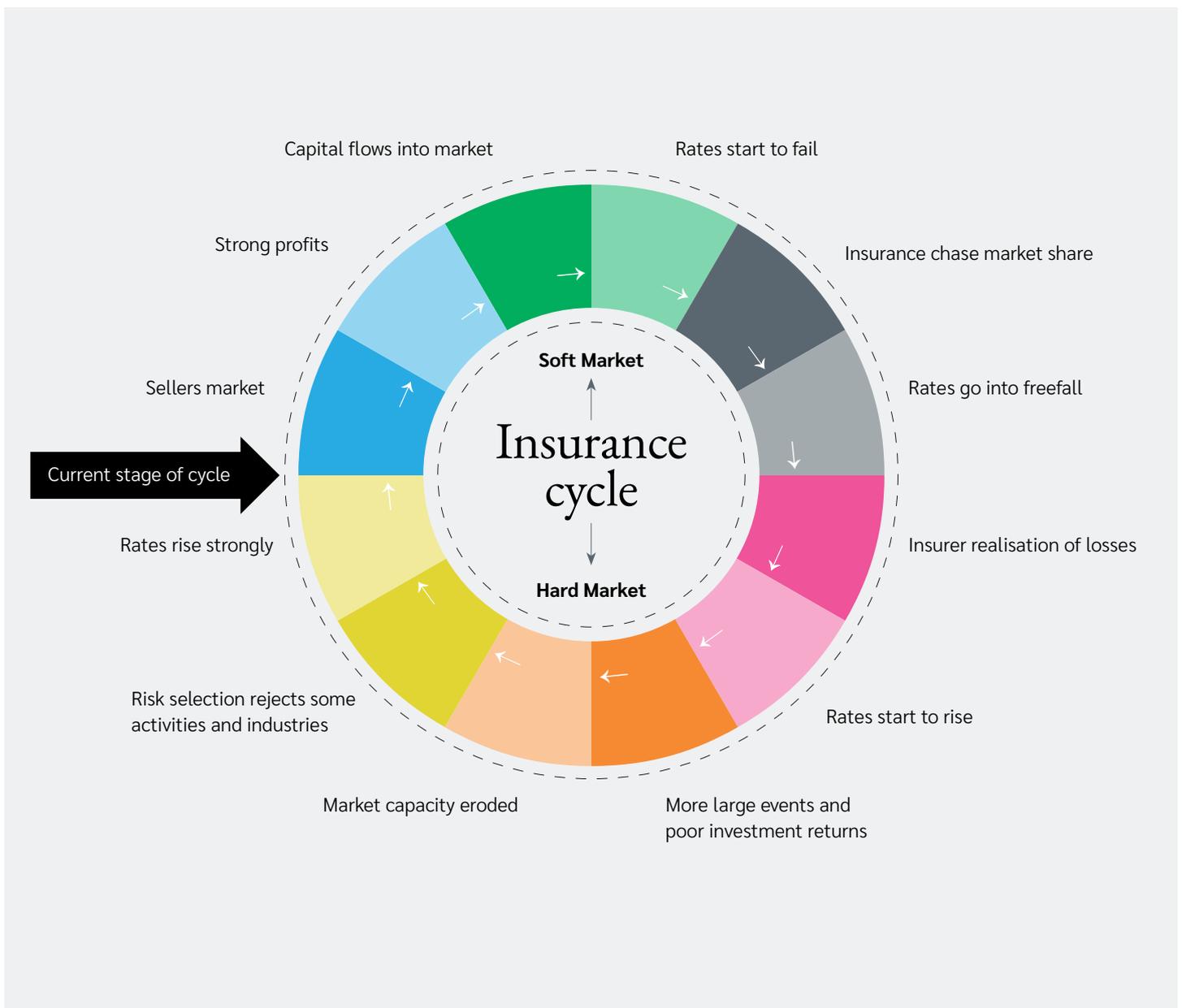
In addition, despite our extensive insurer market access, continuity of insurer remains a vitally important consideration for practices, as only 4.77% moved insurers down from 7% in October and 6.85% in April 2020. This could have been due in part to less competition. Nonetheless, we are acutely aware that some clients decided to remain with their incumbent insurers, despite us presenting a more competitive alternative, and 3.02% of clients elected for co-insurance whilst maintaining a relationship with their lead insurer.



**Summary**

Speaking on behalf of every Lockton associate, we are sympathetic to the situation that practices were faced with, as the impact of the pandemic on the wider economy became clear. The renewal season was not an enjoyable experience with premiums steadily increasing, alongside the challenges of remote working. Schools were closed for a major part of the renewal process and we know that the demands of home schooling and other commitments during lockdown were significant.

The good news is that the insurance market is cyclical and harder markets typically do not last as long as other aspects of the insurance cycle. However, unfortunately we do not envisage the current market conditions changing positively for some time. We anticipate that rates will continue to rise in October, although perhaps not quite as dramatically as they have done in recent years. If your risk profile has altered and you are now undertaking a larger percentage of high risk work, that could result in more of a cosmic shift in premium spend, as rates for higher risk practice areas have been increasing. If your risk profile remains unchanged, we anticipate premiums going up but not as dramatically.



Insurers' appetites are unlikely to change dramatically either and the extension to the SDLT holiday is likely to curtail insurers from relaxing their appetite for practices with property exposures. There is still an active market, evidenced by the fact that we placed business with more insurers in the spring than we were able to in October 2020.

We anticipate heightened mergers and acquisition activity and whilst we appreciate that practices should be alive to opportunities, it is incredibly important to be alive to the risks associated, too. If you are going to consider acquiring or merging a practice, do not rush your decisions, undertake appropriate due diligence and ensure that culture forms an important consideration. Remember that if something or someone seems too good to be true, it generally will be.

Lateral hires create both opportunities and risk and if you are looking to expand your existing team and current infrastructure – great. If this is a new area, insurers will be expecting you to have the appropriate experience to peer review their work and if not, they will want to know how you intend to mitigate the risks associated with their specialisms.

New practice areas could be a consideration for some, but we urge you to liaise with your representative to discuss with your insurers and establish what potential impact this could have on your business. Insurers will expect that you have the appropriate skillset to diversify your business and that you have properly considered the risks associated with doing that. Insurers also expect you to advise them of additional fee earners joining, too.

Succession planning is high on the agenda for insurers, so it is vital that you address this subject. Insurers will want to know what your plans are for the future and they do not like surprises.

### **What you can do now**

Whilst the insurance market is unlikely to be active until the end of July – and for some, that date may creep to the start of August – we recommend that all practices commence your preparations early.

We recommend giving insurers and their underwriting teams a better insight into your practice and preparing a supporting note to accompany the various forms that will be required. Make sure you address their concerns within the document and focus on what you do and for whom. In particular, make consideration for how you look to mitigate the risks associated with your chosen practice area specialisms. It is important to make the right impression of your practices and to highlight the accomplishments and accolades that your firm and your staff have achieved. For further assistance, please contact your Lockton representative who can provide guidance on what you may want to include in the document.

Review your claim summaries now to ensure that these are correct, proactively addressing open matters for closure wherever possible. Insurers claims teams are inundated with new notifications and claim summary requests, particularly when declarations are being signed, so it is prudent to review these matters now. You should also look to prepare some narrative on both open matters with and without any payments or reserves, along with providing narrative where there have been claims payments. Insurers will expect to see five to six years of qualifying claim summaries but we recommend providing more.

Look at all the information online about your practice and your fee earners – this includes your website, the Law Society listing and any reviews about your practice. Prudent underwriters will do this. Check that your website is a true reflection of what you are doing. If you are promoting practice areas in which you do not have expertise, this may well be off-putting to insurers. Look at reviews online and respond to them appropriately.

Risk management should be high on the agenda for every practice and reducing claims impacting the profession will positively impact on market conditions. In the longer term, if we do not actively look to addressing risk, then it is unlikely that we will experience any positive change and the current market conditions will unfortunately be much more prolonged.

In a challenging market place, the selection of your insurance representative is crucial. A specialist broker should be able to demonstrate that they have comprehensive and most importantly, direct access to the active market and also – vitally – that they are able to articulate their claims proposition. Whilst nobody wants to experience claims, you want to make sure that the team servicing you, have the appropriate expertise and infrastructure to support you in your hour of need.

Furthermore, whilst we have highlighted that the market is challenging, we can create healthy competition for your business and deliver innovative solutions. I and the Lockton team would be delighted to speak with you to discuss how we may be able to assist you with your forthcoming renewal.

#### **Brian Boehmer | Partner**

**E:** [brian.boehmer@uk.lockton.com](mailto:brian.boehmer@uk.lockton.com)

**T:** +44 (0) 20 7933 2083