



LOCKTON[®]

**COMPLETING YOUR
PROFESSIONAL INDEMNITY
PROPOSAL FORM**

A PRACTICAL GUIDE FOR SOLICITORS



Introduction

This guidance is intended to be read alongside Lockton's 2014 Solicitors Professional Indemnity Proposal Form.

It contains guidance to accompany key questions in the Proposal Form, to ensure that you:

- Get it right, first time
- Completing the proposal form is as quick and painless as possible
- Present your firm as effectively as possible to insurers

How you present your proposal is indicative of the way that you conduct the rest of your business.

You should use the proposal form as an opportunity to convince insurers to offer PII to your firm. Often this is the only piece of information insurers have about your firm in deciding whether to offer cover and at what price. You should take it seriously; treat it like a business tender. Your proposal should be clear, well-presented and comprehensive.

It is essential that you complete your proposal form comprehensively and accurately with all required documentation attached. Ensure your responses are legible, accurate and well presented. Try to avoid submitting hand written proposal forms. Include any extra information you feel may be helpful to clarify any points.

Check and check again – Approximately two-thirds of forms received by insurers are incorrectly filled out. This delays the obtaining of a quote by the firm and does not reflect well on the firm. Ensure more than one person checks the form before it is sent out. Review spellings and figures. Ensure that all information requested is provided.

If there are any questions that you have which are not addressed in this guidance, please contact your Lockton Account Executive, or email: brian.boehmer@uk.lockton.com.

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COMPLETING YOUR PROPOSAL FORM

The following notes are intended to assist you complete the proposal form quickly and accurately.

Q1. The Practice

Please ensure that your firm is designated correctly, taking account of any changes in status.

(b) Ensure that any trading styles, service, trustee nominee companies are listed and up to date.



If your practice is a traditional partnership, if any of the practice's trustee/nominee companies are deemed to be a 'relevant recognised body', the practice is required to have Primary cover of not less than £3m, rather than the usual £2m.

A Relevant Recognised Body is defined as:

- An unlimited company, or an overseas company whose members' liability for the company's debts is not limited by its constitution or by the law of its country of incorporation; or
- A nominee company only, holding assets for clients of another practice; and
 - (i) it can act only as an agent for the other practice;
 - (ii) all the individuals who are principals of the recognised body are also principals of the other practice; and
 - (iii) any fee or other income arising out of the recognised body accrues to the benefit of the other practice.



tip

(d) Please provide a direct (ie – not generic, such as info@/ enquiries@) email address wherever possible, and a direct dial telephone number. This helps us address any important queries with you as promptly as possible. Ideally your email address should not be a Hotmail/gmail or other free web-based email service, as these are not so secure, and do not comply with the Data Protection Act.

Double check that we have the most up to date website, telephone and email addresses – and please notify us of any changes to these details through the course of the year.

Q2. Mergers & Acquisitions

If you are not sure of the details of all relevant prior practices/merged practices – allow sufficient time to obtain this information. Previous proposal forms should contain the relevant information.

Sole Practitioners

Check with your HR function, or email all staff to enquire whether any member of staff (including consultants) has been a sole practitioner in the previous 6 years

Q3. Principals & Staff

tip

“ For firms with a large number of personnel, we understand that this part of the form is very time-consuming to complete. If you provide us with your staff details using the attached spreadsheet, we will ensure that these details are pre-populated in future. ”

If this information is not readily available, the information provided in last year’s proposal form may provide a useful starting point

Principals: list all Partners (including salaried), or Members (if LLP), or Directors (if Incorporated company)

Assistants: all solicitors other than Principals and Trainees

Include all part time staff here, but ensure that they are identified as part time in Appendix 1 (you can submit your own spreadsheet of staff details if preferred, but please ensure it contains the information requested in Appendix 1).

Solicitor details: the details sought in relation to all solicitor staff in the practice can most easily be provided by means of a separate spreadsheet. This information should be available from your HR team, and we would recommend that a database is created and maintained to provide this information for future years.

Q4. Practicing Certificate & Regulatory Issues

HR records should contain details of any regulatory issues or sanctions for employees. An annual self certification by employees will assist ensure that this information is up to date, insofar as the practice can reasonably be aware.

Your breaches records, which are now a regulatory requirement, should provide the required information regarding breaches reported to the SRA. We recommend that, where these are detailed, you state the nature of the breach, and whether it was a minor or a major breach. It would also be useful to reference any corrective action that had been taken. This could be done by cross-referencing any risk management submission you may wish to append.

Q5. Financial Information & Fees

This section is often wrongly completed.

Financial Year

The current financial year is the ongoing financial year, not the most recently completed financial year. If you are completing the proposal form in July 2014, and your practice financial year runs from 1st October to 30th September, the 'last completed year' is the year ending 30 September 2013, and the current financial year will conclude on 30th September 2014.

Fee income split

For each year in question, you should provide your fee income, apportioned by work:

- Undertaken in the UK, for UK based clients
- Undertaken in the UK for USA/Canadian-based clients
- Undertaken in the UK for clients anywhere else in the world other than UK, USA or Canada
- Undertaken overseas for any clients.

Where there may be fee earners working in a number of locations on a matter, it is the office location of the engagement that would normally determine your response.

tip

If your financial year end falls close to your PII renewal, try to ensure that your accountants are aware of the requirement to provide complete information by a particular date. Some firms have preferred to arrange their renewal date to better align with their financial year end. If this is something you would like to consider, contact your Lockton account manager for advice on the best option for you.

Financial Stability

Financial Stability of law firms is a significant concern for both the SRA and Insurers, currently. Insurers are keen to see 2 years full, audited, accounts. Many insurers also like to see up to date management accounts.

The question regarding advice or recommendations sought on the financial structure of the firm is not a 'trap'! Firms that are taking advice, and seeking to ensure that they are best placed to meet financial and regulatory requirements, are likely to be more favourably viewed by insurers.

tip

If your completed proposal form shows:

- A disparity between Gross fees and partner remuneration
- High levels of unbilled WIP/ 90+ days outstanding billed fees
- Significant overdraft/loan exposure

It is advisable to provide additional information which can explain the circumstances and reassure insurers that your practice are a good risk.

Q6. Work types/Division of fees by work type

Your practice's work split is a significant determiner of the firm's risk profile, and the appetite of certain insurers to consider quoting for the practice's PII cover. It is therefore important to allocate work to work types as accurately as possible.

Allocating work types

Where a transaction includes work undertaken across different departments or different work types, if you clearly split the work either via separate matter references, or otherwise within your practice management systems, reflect this split in your proposal form – otherwise, allocate the work to the dominant work type (eg a commercial property purchase which also involved some planning advice would be classified as Commercial property; where a commercial/corporate transaction incorporates the sale or purchase of a property, ideally this should be split as two transaction types)

Ask your Lockton Account Manager for a copy of your previous year's proposal form, if you do not have access to it, in order to complete the figures for the previous 2 years. The figures for the 'Last Completed Year' should be for the most recent complete financial year for the practice.

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As it often takes considerable time and effort to collate the figures for this section of the proposal form, do start the preparatory work for this early – ideally at least a month before you wish to submit your completed proposal form.

The definitions of work types are provided in the Proposal Form – simply click on the 'information' icon next to each definition for more details.

If you require further assistance with apportioning your fee income, contact your Lockton Account Manager.

Q7. Conveyancing

You only need to complete this question if your practice has undertaken any conveyancing work in the last 6 years. Failing to complete parts of this question because the information is difficult to obtain is likely to prejudice your application – particularly as these questions relate to the highest risk work from an insurance perspective. Do not 'guess' an answer – but neither should you examine every conveyancing file over the last 6 years to obtain an absolutely precise response to every question!

Much of the information required here is likely to have been substantially completed in previous years, and simply require updating for 2013-2014. If you do not have a copy of your conveyancing questionnaire responses from last year, and were a Lockton client at that time, please contact your account manager who will be able to provide you with that information.

If there are questions for which you do not have any information collated already, we would suggest:

- Obtain declarations from fee-earners in the conveyancing team responding to the questions in the conveyancing questionnaire – while ensuring that you gather the information in such a way as to avoid double counting/duplication of responses.
- Interrogate your file management system/Client Relationship Management system -eg:
 - » identifying fees earned sorted by client - to assist identify high %s of fees generated by one client or development;
 - » your accounts department should be able to identify your highest annual fee income from conveyancing in the last 6 years
 - » running reports on property address details –which can then be sorted by postcode in an Excel spreadsheet –may assist identify transactions relating to the same building or development
 - » searching by lender client – with a particular focus on sub-prime lenders such as Birmingham Mid-shires, Northern Rock, Mortgage Express, Kensington Home Loans.

If you are still unsure of which lenders might be considered sub-prime, the Netsolicitors website offers a [list of lenders that offered 'sub prime' mortgages.](#)

tip

Pay particular attention to providing a detailed response regarding the safeguards you have in place relating to reporting to lenders. CML reporting failures account for around 25% of all claims against the profession currently – and if you can evidence robust and meaningful systems and procedures, this will assist us in differentiating your practice from others undertaking conveyancing work

7.5 (d) This is a new information being requested from insurers this year. While it may be difficult to provide exact figures for numbers of transaction per region, fee earners should be able to identify roughly what proportion of their residential conveyancing related to particular regions. Alternatively, it may be possible to search transactions by property address from your databases (eg grouping of post-codes).



Q8. Personal Injury

You only need to complete this question if your practice has undertaken any Personal Injury work in the in the last 12 months.

Failing to complete parts of this question because the information is difficult to obtain is likely to prejudice your application or delay your obtaining terms from an insurer.

Many of the questions are not as onerous as they first appear, as several ask for approximate figures rather than a microscopic analysis. If your systems do not enable you to search against type of personal injury case, obtaining declarations in response to the questions being asked of the relevant team may provide sufficient detail.

The Jackson Reforms have flagged concerns for insurers. Your response to the question re changes made following the Jackson Reforms should ideally address some of the following concerns:

- where claimants decide not to take up ATE insurance, and lose their case, there is a greater likelihood of claims against the solicitor alleging poor advice, failure to advise of the risks, or poor handling of the case
- pressure on fees resulting in less well qualified staff undertaking a greater percentage of work
- whether the changes will have led to PI claims being rushed through prior to 1 April 2013 when the reforms came into effect.

Q9. Litigation

You only need to complete this question if your practice has undertaken any Litigation work in the in the current year or in the preceding three years.

Failing to complete parts of this question because the information is difficult to obtain is likely to prejudice your application or delay your obtaining terms from an insurer.

Insurers are concerned about the potential quantum of any claim – and therefore the claim/settlement value is of particular relevance in determining the risk profile of your litigation practice.

“

Missed Critical Dates and undersettlement allegations are the most common sources of claim in litigation work. If you undertake a significant percentage of litigation work, we would recommend including information about your systems and procedures for mitigating these risks.

”

tip

Q10. Corporate/Commercial

You only need to complete this question if your practice has undertaken any Corporate/Commercial work in the in the current year or in the preceding three years.

Failing to complete parts of this question because the information is difficult to obtain is likely to prejudice your application or delay your obtaining terms from an insurer.

Q11. Risk Management

Please note, the Risk Management questions have changed significantly from last year.

The questions focus on:

- Client & Transaction vetting procedures
- Scoping & the Letter of Engagement
- Managing Critical Dates (this section is particularly relevant for firms undertaking litigious work)
- Undertakings
- Outsourcing arrangements
- Supervision
- File Close and File audit

tip

Firms that have been identified as 'higher risk' in terms of the type of work undertaken, size of the firm, or claims experience should consider submitting a supplementary Risk Management Submission - a [template](#) (and accompanying [guidance note](#)) for which can be found on the guidance pages of our client portal.

If you are uncertain as to your risk categorisation, your Mid-Term Review report should provide an indication of this towards the end of the report

Q12. Claims

OFR requires that you maintain a database of all breaches, claims and complaints. This should provide the information regarding the number of claims and circumstances – as should the latest claims report from your insurers.

Ensure that any potential matters that have not been notified, are notified prior to renewal, and ensure that they are listed on your proposal form. Conversely, if you have concerns that a matter is showing as 'open' when it has been closed, or you consider a reserve to be unjustified - get in touch at an early stage in order that this can be reviewed with you prior to submitting your proposal form.

Insurers require an up to date record of the practice's 10 year's claims history (including any prior practices). Where Lockton has been the practice's broker for the duration, we can obtain this relatively straightforwardly. Where the practice or its prior practices have been insured with a variety of insurers and/or brokers during the period, contact your Lockton Account Executive to discuss how best to provide the claims information.

“

You can download a [Letter of Authority](#) from the Professional Indemnity page of our solicitors website to enable us to obtain the relevant claims experiences from insurance placed by other brokers in the past.

It can often take some time to obtain a full claims experience, particularly where multiple insurers/ previous entities are involved. Please do not leave it to the last minute to authorise us to obtain claims reports on your behalf, where required.

”

tip



Q13. Professional Indemnity Requirements

Even if you are a Lockton client, if you wish quotations for alternative Limits of Indemnity, or alternative levels of 'excess', please complete that section within Q 13.

ARP/Problems with renewal

'has any Qualifying Insurer refused to offer your Practice or Prior Practice terms for your PII?' If you have ever had a 'no quote' from an insurer/an insurer has simply failed to respond with terms, this is not a refusal to offer terms. Only where an insurer has explicitly refused to insure the practice does this count as a 'refusal' for the purposes of this question.

Q14. Changes to a Practice –

Include changes in the corporate structure (eg LLP, ABS), mergers, acquisitions, addition or loss of significant teams, addition or loss of a particular area of work.

Conversion to ABS

Insurers are still uncertain about the potential impact on risk profile of conversion to ABS – particularly as ABSs can take many forms.

If you answer 'yes' to this question, please provide, along with the principal ABS application if one exists already, as detailed a note as possible outlining:

- The type of ABS proposed/envisaged
- The rationale behind the proposed changes
- Information regarding the structure of the new entity (a structure chart would be helpful here)
- Any other accompanying information
- Please provide any authorising documents from the SRA at the earliest opportunity



Our guidance notes on:

- [Mergers and Acquisitions](#), and
- [ABS applications](#)

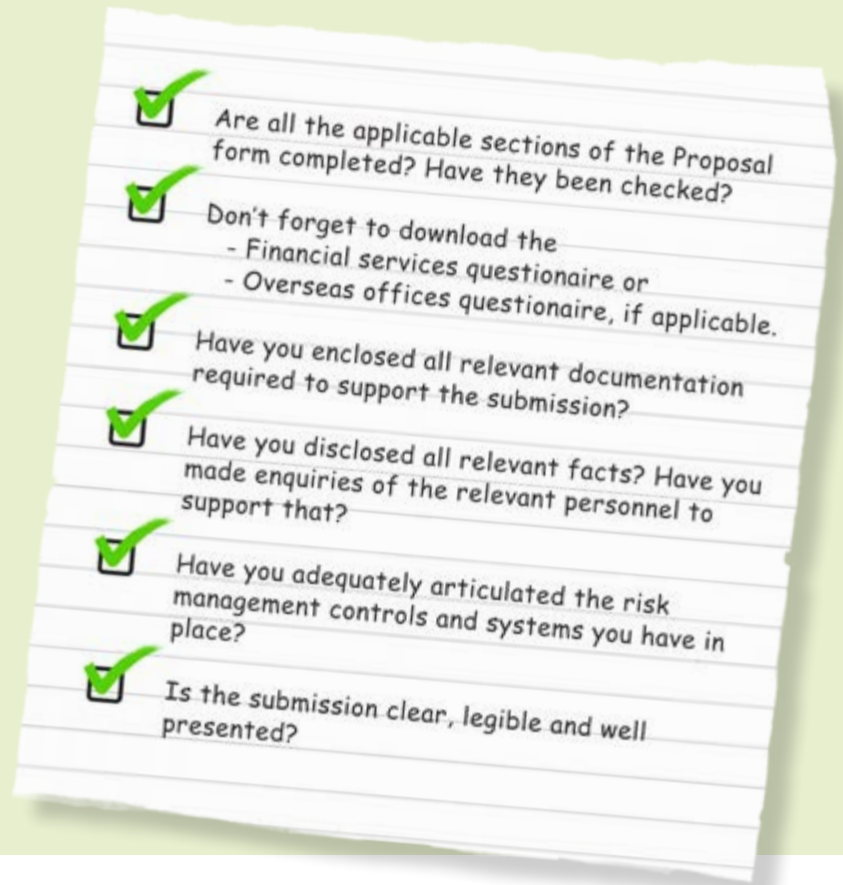
may well assist you to collate the relevant information



tip



PRE SUBMISSION CHECKS



SUBMITTING YOUR PROPOSAL FORM

Please submit your completed forms:

UPLOAD

Upload your completed forms

Email

solicitors@uk.lockton.com

Post

Lockton Companies LLP
Solicitors Team
The St Botolph Building
138 Houndsditch, London,
EC3A 7AG

DX

306301 Houndsditch

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0845 050 1472

APPENDIX

Staff Details Template - [click here to download](#)

LOGSTON						
Name of Staff	Full Name	Date of Birth	Status	Full / Part Time	Year of Qualification	M3 Staff Number

