

Your shop window to insurers - How to use it effectively

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Depending when you renew, you could be vying for the attention of an underwriter's time with hundreds possibly even thousands of your peer group so it is important that you make an effort to stand out from the crowd. After all, your renewal presentation is effectively your shop window to insurers so it is imperative that you use it effectively.

Practices should be looking to present their business as they would to an external investor if they were looking for a loan facility. Presentations often fall well short of this standard and can reflect poorly on some practices. It is important that you take the time to prepare a detailed presentation that represents your practice appropriately.

Remember, it is not only about the work that you undertake, it is how you do it. If you do not take the time to articulate to insurers how or why you should be treated differently, then why should you expect them to differentiate your practice from the rest of the crowd?

An underwriter, when providing you with terms of insurance, will be putting their company's capital at risk. It is therefore important that we help establish the right opinion of your practice and that means presenting your practice appropriately. This will include addressing any potential concerns that they may have, in light of your activities, after all the easiest thing for an underwriter to do is to say 'no'.

It is now common practice for many insurers to adopt a peer review system prior to the issuance of any terms. Acknowledging this fact, you may be looking for more than one underwriter to buy into your practice. Appreciating how insurers assess risk, (see *The Art of underwriting*), you should then think about how you wish to present your practice.

Under the Insurance Act 2015 you have a new duty to make a fair presentation of your risk. To meet this duty you still need to disclose all material information in connection with your legal practice to insurers, which is known to you.

Information is material, if it would influence the judgement of a prudent insurer in establishing premium or determining whether to underwrite the risk and if so on what terms.

Whilst in light of the act, it is incredibly important to share all of the key points about your practice along with all of the softer facts of your business. However, providing your office manual is unnecessary, as Winston Churchill once said:

“ The length of this document defends it well against the risk of its being read.

We know that the unique characteristics of a practice should influence the underwriter so what additional material information should be included in a presentation beyond the proposal form and insurer claim summaries, which generally contain the “hard” facts about your practice?

Taking the points above on board, I would recommend providing insurers with a foreword about your practice. This should begin with a short history of the practice advising insurers of your past, effectively articulating the journey that your practice has taken to get to where you are today.

After the brief history this foreword could include, the structure of the practice, the culture of the firm; which could be influenced by the layout of your teams or office(s). Articulating this will help the underwriter visualise the working environment, especially if they have not had the opportunity to visit your office.

It will also be advantageous to highlight to insurers what your current goals are along with your plans and aspirations for the future. If you have a business plan, then it would be prudent to share this document with insurers.

An overview of who your typical clients are is key. Despite the work undertaken being classified the same, not all clients that you act for will be considered as identical in their risk profile so giving the underwriter a better understanding of not only what you do, but who you are doing it for could pay dividends.

If you are acting for perceived higher risk clientele, how are you mitigating the risks associated with this?

For example:

- Acting for Ultra High Net worth clients may be perceived a greater risk than acting for the general public
- Acting for PLC's would be a greater perceived risk when compared to a firm that is acting for commercial SMEs

Further to understanding who your clients are, insurers would also like a deeper understanding of your business model, in particular where you get your clients from and how business is obtained. Providing this information becomes increasingly important for practices that have no website or online visibility, as a prudent underwriter should be intrigued as to the long term viability of your practice.

Ultimately to address this, you should be detailing if you pay for referrals and business introductions or if all enquires are self-generated through marketing and business development initiatives including your website. If your new clientele are all from referrals from existing clients or they come from other non-paid for introductions from other professional service firms. It may well be the case that your new clients are a combination of all of the above.

Ensure that within your presentation you addresses any complex issues and disclose all material facts whether that be any regulatory issues or claims that you have experienced. Insurers often favour practice's that provide a clear summary of the supporting evidence or you could make your presentation too document heavy. You can always offer to provide this further information upon request or if you do wish to provide all of this information do so in the appendix making clear reference to it.

If you have experienced claims, it does not mean that you will be uninsurable but it is most important to articulate the lessons that have been learned from the experience. Importantly articulating what measures have been implemented to prevent a claim from happening again will be the key to satisfy the underwriters.

Stating that a fee earner who was responsible for a particular claim or claims is not necessarily going to be the answer insurers are looking for. Underwriters will be interested in knowing if the supervision changed? What happened for this claim to materialise? And why did it happen?

If the claim(s) that you have experienced has stemmed from one fee earner, have you undertaken a review of their work to ensure that there are no more skeletons in the closet? If you do not address this issue, it could make you less attractive to another insurer and then reduce potential competition for your business.

Perceived systemic claims issues are frowned upon by most underwriters upon much more so than a practice that has experienced a single large claim. Therefore insurers will expect if a practice who has experienced multiple claims from the same area of law, to have actively done something about it to prevent similar occurrences going forward.

If you have begun to undertake a particular area of law but do not have the skill set to review that particular area of law, could you buddy up with a firm that does, to ensure that you are not left with a raft of claims for failing to identify issues on those files.

An article on the Lockton solicitors website entitled beware of the cuckoo could be worth reading, this article highlights the importance of due diligence in your interviewing process to avoid hiring potentially hazardous staff members.

Risk management, this is an incredibly important component of the foreword, and should provide the underwriters with real comfort about your practice. To get comfort underwriters will like to know what you do, in order to mitigate the risks associated with the legal work undertaken within your practice. It is not always about what you do, it's the way in which you do it!

In light of this, whilst this is not an exhaustive list you may wish to articulate items within this section such as:

- What is your client onboarding process
- Does this change on your new instruction process?
- How are matters classified
- Do higher risk files have greater scrutiny or supervision?
- Is there a firm wide system that risk grades matters
- How easy is it to identify high value files?
- What is the frequency of peer reviews and file checking
- What is the file selection process?
- Is this just internal, external or a combination of both?
- Do you have centralised controls?
- Do you have the ability to monitor live progress of matters
- Can you monitor individuals work load to minimise mistakes but also stress
- Are risk flags raised if matters stall or files remain open with no actions?
- How do you manage the risks associated with a fee earner having a dependency or significant reliance of work emanating from one introducer or source?
- What are the payment and financial controls within the practice? e.g. dual factor authentication
- What is your approach to cyber security?
- How do you address training and raising awareness of staff

Throughout this document, it is incredibly important that you are proud of your practice and highlight to the underwriters all of the various accomplishments that you and members of your team have achieved. This may include accomplishments achieved such as Lexcel, CQS, or other specific accreditations. You may wish to include items such as listings in Legal 500, winning specific awards or even being shortlisted for honours.

For those practices that encourage customer opinion and feedback, you may also wish to include a summary of your reviews along with the aggregated score that you have received. Insurers will be aware of the fact that there are numerous active customer review sites such as Google, Trust Pilot and Review Solicitors.

The proposal form

We encourage the supporting document to support the proposal form that you complete, but it is also incredibly important to ensure that you complete this form along with any applicable supplementary questionnaires with due care and attention.

First of all, we recommend the completion of these forms electronically wherever possible, this will help guarantee that the presentation is clear for the underwriter(s) who will be assessing the detail contained within it.

Making sure that you answer all of the questions that are applicable to your practice, including providing any of the supporting information or answers to questions that the form specifically requests should be included.

Double checking that your work split adds up to 100% is also important. Underwriters will have to transfer this information into a pricing tool that has been designed by their actuaries. If your work split does not add up to 100% you are effectively wasting their time as this will stop them from being able to establish the base line price for your risk in order for them to undertake their risk assessment.

Naturally if you waste someone's time, that is not going to enhance their perception of your practice and could be reflected on any terms offered, if at all.

If you are planning on undertaking a benchmark of your current professional indemnity programme, then you should include up to date claim summaries that are no more than three months old in advance your renewal date.

If you have changed insurers multiple times your current broker is still able to request these on your behalf with an authority letter to save you time so that you can focus on fee earning or running your practice.

A lack of up to date claim summaries will result in alternative insurers providing an indication of terms rather than a formalised quotation, this will be formalised once they can verify this information found on the updated insurers claim summaries. If you have experienced claims, the figures must be up to date in order for you to comply with your duty under the Insurance Act.

Having up to date figures has an increased importance for underwriters if there are any open circumstances or claims. If open matters have no reserve, provide your view on both merit and quantum so that they have factor this into their underwriting rationale.

In addition to reviewing the presentation that you prepare, we know that prudent underwriters will look to access and review all readily available information. It is incredibly important to ensure that you do not have any discrepancies in your presentation, your website along with what the Law Society have as the areas of practice undertaken at your organisation.

Advertising areas of law on your website or having incorrect areas of practice listed on the law society that are not identified on the Proposal form can put off underwriters putting terms forward for your consideration, as they may think that you are materially non disclosing information – especially if missing items are from higher risk areas of law.

Whilst insurers acknowledge websites are primarily there to promote enquiry, they do expect to see the information contained on the website, recognisable after reading your presentation, over-elaboration on your website can reflect badly.

We highlighted earlier in this article, your duty of disclosure under the new Insurance Act, in light of this it may well be prudent to undertake a google search of your practice name prior to submitting your presentation. Especially as we know that a prudent underwriters will do this, so it's imperative that you provide an accurate picture.

If anything negative appears on a search, it would be far better for you to bring it to the attention of underwriters, they are human and appreciate that things happen in business and sometimes these are negative.

They do however expect honesty and transparency, underwriters are generally much more forgiving of an issue that has occurred historically if they were advised about the situation rather than them finding it out through their own enquiry. It is important to note that the SRA, do list results of their findings and decisions that they may have made.

In the current insurance market conditions, we would recommend practices begin their renewal process earlier than they have recently become accustomed to doing so.

Whilst there is still healthy competition from the participating insurers you want to be in a position that all appropriate insurers have the time to review your presentation to make sure that you do not miss out on available competition due to leaving matters to the very last moment. In light of this I suggest allowing for a minimum of a 6 week lead in time in advance of your renewal date.

[For further support and guidance on how we can assist your practice in preparation for your forthcoming renewal, or to explore the available insurance market place on your behalf please contact myself or your Lockton representative.](#)

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