



Solicitors 2006/7

# Professional indemnity liability policy

On the basis that the Insured has provided to the Insurer a written Application Form and Quote Confirmation Form containing particulars and statements that, together with any other information that may have been supplied, are the basis of and are incorporated into this Policy and has paid the premium specified in the Schedule:

## 1. Coverage

The Insurer to the extent and in the manner hereinafter provided hereby agrees:

### 1.1 Civil Liability

To indemnify the Insured against any Civil Liability to the extent that it arises from Private Legal Practice in connection with the Firm's Practice, a Prior Practice or a Successor Practice provided that a Claim in respect of such liability:

- (a) is first made against an Insured during the Period of Insurance; or
- (b) is made against an Insured during or after the Period of Insurance and arising from Circumstances first notified to the Insurer during the Period of Insurance.

### 1.2 Run-off Cover

- (a) To indemnify the Insured if the Firm's Practice ceases during or on expiry of the Period of Insurance and the Firm has not obtained succeeding insurance in compliance with the Minimum Terms against any Civil Liability as defined in clause 1.1 above (a 'Cessation') during a period ending on the sixth anniversary of the date upon which the Period of Insurance ends.
- (b) Indemnity under this clause will only be available if there is no Successor Practice. An additional premium of 225% of the annual premium shown in the Schedule (recalculated to reflect the Limit of Indemnity in clause 2.1 (b) (iii) below and the nil Excess specified in clause 3 below) or, where applicable, of the annualised equivalent of the premium shown in the Schedule (recalculated to reflect the Limit of Indemnity specified at clause 2.1 (b) (iii) below and the nil Excess specified in clause 3 below) will become payable in full immediately upon Cessation of the Firm if there is no Successor Practice.

(c) Where run-off cover has been activated in accordance with this Policy but the Firm's Practice restarts, the Insurer may cancel such run-off cover on such terms as the Insurer in its sole discretion requires, provided that:

- (i) there is insurance complying with the Minimum Terms in relation to that Firm in force on the date of cancellation; and
- (ii) the Qualifying Insurer providing such insurance confirms in writing to the Firm and the Insurer (if different) that:
  - (aa) it is providing the Firm with insurance that complies with the Minimum Terms for the current indemnity period; and
  - (bb) it is doing so on the basis that the Firm's Practice is regarded as being a continuation of the Firm's Practice prior to Cessation and that accordingly it is liable for Claims against the Firm arising from incidents, occurrences, facts, matters, acts and/or omissions that occurred prior to Cessation.

### 1.3 Defence Costs

To indemnify the Insured against Defence Costs in relation to:

- (a) any Claim referred to in clause 1.1 or clause 1.2; or
- (b) any Circumstances first notified to the Insurer during the Period of Insurance; or
- (c) any investigation, inquiry or disciplinary proceeding during or after the Period of Insurance arising from any Claim referred to in clause 1.1 or clause 1.2 or from Circumstances first notified to the Insurer during the Period of Insurance.

### 1.4 Minimum Terms

- (a) Where the Period of Insurance (excluding run-off cover) is for a term exceeding one year, it shall be construed and modified so far as is necessary to incorporate the Minimum Terms in force from time to time from the date on which the change in the Minimum Terms or in the Solicitors' Indemnity Insurance Rules (as the case may be) come into effect.

# Professional indemnity liability policy (continued)

(b) Where clause 1.4 (a) applies:

- (i) unless the Minimum Terms expressly provide, any change in them shall not confer any increased cover or benefit on the Insured in relation to:
  - (aa) Claims already made or intimated; or
  - (bb) Claims arising from Circumstances already notified to the Insurer at the time the change in the Minimum Terms takes effect.
- (ii) The Insurer may charge such additional premium as the Insurer in its sole discretion considers would have applied had the change in the Minimum Terms been known at the time the premium for the Policy was agreed.

## 2. Limit of Indemnity

- 2.1 The limit of the Insurer's liability under this Policy shall be the sum specified in the Schedule for any One Claim, exclusive of Defence Costs, save that:
- (a) if the Insurer makes any payment under clause 6.10(b) the amount of the Limit of Indemnity shall be reduced by the amount of that payment;
  - (b) the Limit of Indemnity under this Policy shall not exceed £2,000,000 for a sole practitioner or a partnership and £3,000,000 for a Relevant Recognised Body if:
    - (i) the whole or any part of the premium or any additional premium payable in respect of this Policy remains unpaid;
    - (ii) but for clause 5.1, the Insurer would have been entitled to avoid or repudiate this Policy;
    - (iii) cover is provided pursuant to clause 1.2 above.
- 2.2 The Insurer shall, in addition, indemnify the Insured in respect of all Defence Costs under clause 1.3 provided that, if payment in excess of the amount of indemnity available under this Policy has to be made to dispose of any Claim or Claims against the Insured, the Insurer's liability for such Defence Costs shall be such proportion thereof as the amount of indemnity available under this Policy bears to the amount required to dispose of such Claim or Claims.

## 3. Excess

- 3.1 (a) The amount of the Excess specified in the Schedule shall be borne by the Insured for any One Claim (save that, where cover is provided pursuant to clause 1.2, the Excess shall be nil). The amount of the Excess shall not be applicable to Defence Costs under clause 1.3 of this Policy.
- (b) In the event of non-disclosure by the Insured of any Circumstances existing at the date of inception of the Policy that subsequently lead to a Claim, the Excess payable by the Insured shall be twice the Excess specified in the Schedule or £10,000, whichever is the greater, save that for the purpose of calculating any aggregate Excess the amount specified in the Schedule shall apply.

## 4. Exclusions

This Policy shall not indemnify the Insured against any Claim or for any Defence Costs:

### 4.1 Prior cover

In respect of which the Insured is entitled to be indemnified in whole or in part by the Solicitors Indemnity Fund ('SIF') or under a professional indemnity contract for a period earlier than the Period of Insurance, whether by reason of notification of Circumstances to SIF or under the earlier contract or otherwise.

### 4.2 Death or bodily injury

In respect of causing or contributing to death or bodily injury, but this exclusion is not to apply to liability for psychological injury or emotional distress that arises from a breach of duty in the performance of or failure to perform Private Legal Practice.

### 4.3 Property damage

In respect of causing or contributing to damage to, or destruction or physical loss of any property (other than property in the care, custody or control of any Insured in connection with the Firm's Practice and not occupied or used in the course of the Firm's Practice), but this exclusion is not to apply to liability for damage, destruction or loss that arises from breach of duty in the performance of or failure to perform Private Legal Practice.

# Professional indemnity liability policy (continued)

## 4.4 Partnership disputes

Arising from any actual or alleged breach of the Firm's partnership or shareholder agreement or arrangements, including any equivalent agreement or arrangement where the Firm is a limited liability partnership or a company without a share capital.

## 4.5 Employment breaches, discrimination etc.

Arising from wrongful dismissal, repudiation or breach of an employment contract or arrangement, termination of a training contract, harassment, discrimination or like conduct in relation to any partnership or shareholder agreement or arrangement or the equivalent where the Firm is a limited liability partnership or a company without a share capital, or in relation to any employment or training agreement or arrangement.

## 4.6 Debts and trading liabilities

Arising out of or in connection with any:

- (a) trading or personal debt of any Insured; or
- (b) breach of the terms of any contract or arrangements for the supply to, or use by, any Insured of goods or services in the course of the Firm's Practice; or
- (c) guarantee, indemnity or undertaking by an Insured in connection with the provision of any finance, property, assistance or other advantage directly or indirectly to that Insured.

## 4.7 Fines and penalties

In respect of any:

- (a) fine or penalty; or
- (b) award of punitive, exemplary or like damages under the law of the United States of America or Canada other than in respect of defamation; or
- (c) order or agreement to pay the costs of a complainant, regulator, investigator or prosecutor of any professional conduct complaint against, or investigation into the professional conduct of, any Insured.

## 4.8 Fraud or dishonesty

In respect of or arising from dishonesty or a fraudulent act or omission committed or condoned by the Insured, except that:

(a) this exclusion is not to apply to any other Insured who did not commit or condone the dishonesty or fraudulent act or omission; and

(b) no dishonesty or fraudulent act or omission will be imputed to a body corporate unless it was committed or condoned by, in the case of a company, all directors of that company, or, in the case of a limited liability partnership, all members of that limited liability partnership.

## 4.9 Directors' or officers' liability

In respect of or arising from the Insured's capacity as a director or officer of a body corporate (other than a Recognised Body or a service, administration, trustee or nominee company referred to in clause 7.11(c)) except that this exclusion is not to apply to:

- (a) any liability of that Insured that arises from a breach of duty in the performance of or a failure to perform legal work to the extent that any fees or other income accrue to the benefit of the Firm's Practice; and
- (b) any liability of any other Insured who incurs vicarious or joint liability.

## 4.10 Overseas practice

In respect of any liability incurred in connection with the provision of professional services by the Firm that is carried on from an office outside England and Wales.

## 4.11 Other insurance

If an Insured is entitled to claim, or but for the existence of this Policy would be entitled to claim, against any other policy of insurance, the Insurer shall not be liable to indemnify under this Policy except:

- (a) to the extent required by the Minimum Terms; and
- (b) in respect of any sum in excess of the amount that would have been payable under the other policy had this Policy not been effected.

For the purposes of this clause, 'policy' and 'insurance' shall include cover provided by any mutual or other similar fund.

# Professional indemnity liability policy (continued)

## 4.12 War and terrorism and asbestos

In respect of, or in any way in connection with:

- (a) terrorism, war or other hostilities; and/or
- (b) asbestos or any actual or alleged asbestos related injury or damage involving the use, presence, existence, detection, removal, elimination or avoidance of asbestos or exposure to asbestos;

provided that this exclusion does not apply to any Civil Liability or related Defence Costs arising from any actual or alleged breach of duty in the performance of or failure to perform Private Legal Practice or a failure to discharge or fulfil any duty incidental to the Firm's Practice or to the conduct of Private Legal Practice.

## 5. Special conditions

### 5.1 No avoidance or repudiation

- (a) The Insurer shall not be entitled to avoid or repudiate this Policy on any grounds whatsoever including, without limitation, non-disclosure or misrepresentation, whether fraudulent or not.
- (b) Where but for this clause the Insurer would have been entitled to avoid this policy on the grounds of any non-disclosure or misrepresentation by the Insured of any material fact or matter, the Insurer may charge such additional premium as the Insurer in its sole discretion considers would have applied had such fact or matter been disclosed or accurately represented.

### 5.2 No denial

The Insurer shall not be entitled to deny or reduce the Limit of Indemnity provided by this Policy on any grounds whatsoever including, without limitation, any breach of any term or condition of this Policy except:

- (a) as provided in clause 2.1; or
- (b) to the extent that the Insurer's liability is excluded by the provisions of clause 4; or
- (c) in the event of the Insurer making a payment pursuant to clause 6.10(b).

### 5.3 Cancellation

This Policy may not be cancelled other than if (and with effect from the date upon which):

- (a) the Firm's Practice is merged into a Successor Practice which Successor Practice has the benefit of insurance cover complying with the Minimum Terms; or
- (b) replacement insurance obtained by the Firm complying with the Minimum Terms commences.

Any cancellation of this Policy shall not affect the rights and obligations of the parties that have accrued under this Policy prior to the date of cancellation.

### 5.4 Double insurance

(a) Where, during the Period of Insurance, the Firm's Practice either:

- (i) is succeeded by a Successor Practice; or
- (ii) itself becomes a Successor Practice;

and the insurers of one or more other practices are liable in respect of the Claim, the Insurer's liability for the Claim and Defence Costs shall be in such proportion as the number of Principals of the Firm's Practice bears to the number of Principals of the other practice immediately prior to the succession.

(b) The Insured shall:

- (i) give notice in writing to the other insurer immediately of all matters referred to in clauses 6.1 and 6.2; and
- (ii) comply with the terms of the other policy.

### 5.5 No set-off

Any amount payable by the Insurer to indemnify an Insured against Civil Liability to a claimant will be paid to the claimant, or at the claimant's direction, and the Insurer is not entitled to set off against any such amount any payment due to the Insurer including, without limitation, any payment of premium or reimbursement due to the Insurer.

# Professional indemnity liability policy (continued)

## 5.6 Advancement of Defence Costs

The Insurer shall pay Defence Costs incurred in the defence or settlement of any Claim at the time they are incurred, including Defence Costs incurred on behalf of an Insured where it is alleged that the Claim is excluded from cover under clause 4.8, except that the Insurer shall not be liable for Defence Costs incurred on behalf of the Insured after the earlier of:

- (a) the Insured admitting to the Insurer the commission or condoning of a dishonest or fraudulent act or omission; or
- (b) a court or other judicial body finding that the Insured was in fact guilty of a dishonest or fraudulent act or omission.

## 5.7 Resolution of disputes regarding whether a Firm is a Successor Practice

If there is a dispute as to whether a Firm is a Successor Practice for the purpose of clauses 1.1 and 1.2, the Insured and the Insurer will take all reasonable steps (including, if appropriate, referring the dispute to arbitration) to resolve the dispute in conjunction with any related dispute between any other party that has insurance complying with the Minimum Terms and that party's insurer.

## 5.8 Conduct pending dispute resolution

Pending resolution of any coverage disputes and without prejudice to any issue in dispute, the Insurer will, if so directed by the Law Society of England and Wales, conduct any Claim, advance Defence Costs and, if appropriate, compromise and pay the Claim. The Law Society may, in its absolute discretion, make such a direction, but only if it is satisfied that:

- (a) the party requesting the direction has taken all reasonable steps to resolve the dispute with the other parties; and
- (b) there is a reasonable prospect that the coverage dispute will be resolved or determined in the Insured's favour; and
- (c) it is fair and equitable in all the circumstances for such direction to be given.

## 5.9 Minimum Terms to prevail

This Policy of Insurance is to be construed or rectified so as to comply with the requirements of the Minimum Terms and any provision that is inconsistent with those Minimum Terms is to be severed or rectified such that it complies with them.

## 6. General Conditions

### 6.1 Notice of Circumstances

The Insured shall give notice in writing to the Insurer immediately of any Circumstance of which the Insured shall become aware that may give rise to a Claim against the Insured. Provided such notice has been given during the Period of Insurance, any Claim to which that Circumstance has given rise that is subsequently made after the expiry of the Period of Insurance shall be deemed for the purpose of this Policy to have been made during the Period of Insurance.

### 6.2 Notice of Claim

The Insured shall give notice in writing to the Insurer immediately in the event of:

- (a) any Claim made against an Insured;
- (b) the receipt of notice from any party of an intention to make a Claim against an Insured;
- (c) any loss sustained by an Insured;
- (d) the discovery of reasonable cause for suspicion of dishonesty or fraud on the part of any former or present Principal or Employee whether or not giving rise to a Claim hereunder;
- (e) any investigation, inquiry or disciplinary proceeding.

### 6.3 Contents of Notice

Notice must contain full particulars including all material facts, dates and persons involved and, in the case of notice of a Circumstance, the reasons for anticipating that the Circumstance may give rise to a Claim.

# Professional indemnity liability policy (continued)

## 6.4 Notice of changes

- (a) The Insured shall give prior notice in writing that it is going to merge, acquire or absorb any other legal practice or change its name during the Period of Insurance. The Insurer shall have the right to charge an additional premium.
- (b) The Insured shall give notice in writing of Cessation of, or intervention in, the Firm and shall pay such additional premium as may be due for run-off cover immediately upon giving such notice or, if earlier, upon the Cessation or intervention.
- (c) The Insured shall give notice in writing immediately after obtaining any replacement insurance complying with the Minimum Terms.

## 6.5 Co-operation of the Insured

- (a) The Insured shall not make any express or implied admission or denial of liability, or any other arrangement, offer, promise or payment or incur any costs and expenses without the prior written consent of the Insurer.
- (b) The Insured shall, at its own expense, provide the Insurer or any solicitor appointed by the Insurer with all information, evidence, documents and assistance as the Insurer may reasonably require for the proper and efficient investigation of any Circumstance and conduct of any Claim, investigation, inquiry or disciplinary proceeding.
- (c) The Insurer shall be entitled, as it may in its absolute discretion think fit, at any time, to take over the conduct in the name of the Insured or the Firm of the defence or settlement of any Claim or proceedings or to prosecute in the name of the Insured or the Firm for the Insurer's own benefit any claim for indemnity or otherwise, and the Insured shall, at all times, give full information, co-operation and assistance for these purposes. The Insured authorises any solicitor appointed by the Insurer to go on the court record in any proceedings. This provision shall apply even to:
  - (i) the conduct of Claims;
  - (ii) the defence and prosecution of any proceedings; and

(iii) any claims against any other party that:

- (aa) are within the Excess; or
- (bb) include uninsured losses;

whether or not the Insured seeks indemnity under this Policy.

- (d) The Insured shall, in the conduct of any Claim or claim against any third party for indemnity or otherwise, comply with all rules of court and orders made by the court, shall follow all reasonable advice given by any solicitor appointed by the Insurer, shall attend any hearings, meetings or conferences as may reasonably be required and shall sign any documents as may reasonably be required.
- (e) The Insured agrees that any solicitor appointed by the Insurer shall disclose to the Insurer any information, evidence or documents that the Insured has provided to that solicitor whether privileged or not.
- (f) In order to ascertain whether full and accurate information has been provided in accordance with this Policy and to obtain such information in so far as it may not have been, the Insurer may appoint any person whom it thinks fit and may require the Insured or the Firm to produce to that person at such times and places as he may request all such accounting and other records and documents, and to supply him in relation thereto with such information and explanations, as he may from time to time require.
- (g) It is agreed that the Insurer may comply with all the requirements imposed upon it by the Qualifying Insurer's Agreement between the Law Society and the Insurer and by the Solicitors' Indemnity Insurance Rules and may notify the Law Society and the Assigned Risks Pool Manager of failure of the Insured to pay the premium or any part thereof.
- (h) The Insured shall pay forthwith on demand any Value Added Tax incurred in relation to Defence Costs insofar as the Insured can recover such Value Added Tax from HM Customs and Excise.

# Professional indemnity liability policy (continued)

## 6.6 Requirement to contest legal proceedings

The Insured shall not be required to contest any legal proceedings unless a Queen's Counsel (to be mutually agreed upon by the Insured and the Insurer or failing agreement to be appointed by the President of the Law Society of England and Wales) shall advise that, taking due account of the interests of both the Insurer and the Insured, such proceedings should be contested.

Queen's Counsel's fee will in each case be payable by the party against whose contention Queen's Counsel advised.

## 6.7 Reimbursement

(a) Any Insured who:

- (i) committed; or
- (ii) condoned (whether knowingly or recklessly); non-disclosure, misrepresentation, breach of the terms or conditions of this Policy, dishonesty or any fraudulent act or omission is obliged to reimburse the Insurer to the extent that is just and equitable having regard to the prejudice caused to the Insurer's interest by such non-disclosure, misrepresentation, breach, dishonesty or fraud.

(b) However, non-disclosure, misrepresentation, breach, dishonesty, fraudulent act or omission shall not be imputed to a body corporate unless it was committed or condoned by, in the case of a company, all directors of that company, or, in the case of a limited liability partnership, all members of that limited liability partnership.

(c) Except that the Insurer shall not be entitled to obtain reimbursement pursuant to this clause from an Insured as defined by clause 7.11(d) of this Policy who is employed in connection with the Firm's Practice or his estate or personal representatives unless that Insured:

- (i) committed; or
- (ii) condoned (whether knowingly or recklessly); dishonesty or any fraudulent act or omission.

(d) No Insured shall be required to make any such reimbursement under this condition to the extent that any such breach of the terms or conditions of the insurance was in order to comply with any applicable rules or codes laid down from time to time by the Council of the

Law Society of England and Wales, or in the Law Society publication 'Keeping Clients – a Client Care Guide for Solicitors' as amended from time to time.

(e) Any sum paid pursuant to clause 3(b), that is over and above the Excess noted in the Schedule shall be taken into account when assessing the extent of the Insured's obligation to reimburse the Insurer under this clause.

(f) The Insured shall reimburse the Insurer any sums that the Insurer has paid but for which it has no liability to indemnify under the terms of this Policy. The Insured shall also pay interest at the rate of LIBOR plus 1%.

(g) Reimbursement with interest shall apply, but is not limited, to:

- (i) Defence Costs, whether relating to a Claim that is not covered, or a proportion of Defence Costs by virtue of clause 2.2 or clause 5.4;
- (ii) sums paid pending resolution of a coverage dispute;
- (iii) sums for which other insurers are liable;
- (iv) sums for which an Insured is liable.

(h) Where any payment is made by the Insurer and any sums are recovered from any other party, those sums shall be applied in the following order:

- (i) reimbursement of payments by the Insurer with interest at the rate of LIBOR plus 1%; then
- (ii) Defence Costs and costs of any claim for recovery, whether litigated or not; then
- (iii) any surplus shall be paid to the Insured.

(i) If any payment is made by the Insurer in respect of a Claim against the Insured, the Insurer will be subrogated to all rights of the Insured of indemnity, contribution or recovery to the extent of that payment. The Insured will not surrender any such right, or settle any such claim for indemnity, contribution or recovery without the prior consent in writing of the Insurer.

(j) Any unrecovered costs incurred in pursuing recovery claims that comprise both insured and uninsured losses shall be shared in the ratio of the respective recovery claims.

# Professional indemnity liability policy (continued)

## 6.8 Requirement to obtain reimbursement

Where a loss or Claim involves dishonesty or a fraudulent act or omission committed or condoned by an Insured, any other Insured shall at the request and expense of the Insurer take all reasonable steps to obtain reimbursement from the Insured who committed or condoned such dishonesty or fraud.

## 6.9 Withholding assets or entitlement

The Insurer may require the Firm to account to it for any asset or entitlement of any Insured who has committed or condoned dishonesty or any fraudulent act or omission, provided the Firm is legally entitled to hold that asset or entitlement.

## 6.10 Funding of the Excess

(a) The Insured shall pay the Excess to the Insurer or any solicitor appointed by the Insurer promptly upon request in connection with any payment into court, interim payment, tender or settlement of any Claim or Claimant's costs.

(b) If the Insured fails to pay to the Claimant any amount that falls within the limit of the Excess within 30 days of that amount becoming due for payment and the Claimant gives the Insurer notice of the Insured's default, the Insurer shall pay that amount to the Claimant.

## 6.11 Reimbursement of the Excess

Each of the Principals in the Firm during the Period of Insurance shall reimburse the Insurer for the amount of any Excess paid by the Insurer on the Insured's behalf and shall pay interest on that amount from the date of the Insurer's payment at the rate of LIBOR plus 1%. The Limit of Indemnity shall be reinstated to the extent of reimbursement of any amount that eroded it pursuant to clause 2.1(a).

## 6.12 Arbitration

Save as provided in clause 6.6, any dispute or disagreement between the Insured and the Insurer arising out of or in connection with this Policy shall be referred to arbitration in accordance with the Arbitration Act 1996 before a sole arbitrator to be mutually agreed upon by the Insured and the Insurer or failing agreement to be appointed by the President of the Law Society of England and Wales.

## 6.13 Special conditions to prevail

To the extent that there exists any inconsistency between the general conditions provided under clause 6 of this Policy and the special conditions provided under clause 5 of this Policy, the special conditions shall prevail.

## 6.14 Contracts (Rights of Third Parties) Act 1999

It is hereby noted and agreed for the purposes of the Contracts (Rights of Third Parties) Act 1999 that the parties do not intend any term of this Policy to be enforceable by any third party except by the Insured as defined by clause 7.11 of this Policy.

## 6.15 Waiver

The terms of this Policy shall not be waived or changed except by endorsement issued by the Insurer or intended to be issued by the Insurer to form part of this Policy.

## 7. Definitions

In this Policy, unless the context otherwise requires:

### 7.1 General

- (a) the singular includes the plural, and vice versa;
- (b) the male gender includes the female and neuter genders;
- (c) person includes a body corporate;
- (d) a reference to a partnership does not include a limited liability partnership which is a body corporate;
- (e) a reference to a director includes a member of a limited liability partnership;
- (f) a reference to a solicitor includes a Registered European Lawyer;
- (g) headings are merely descriptive and not an aid to interpretation.

### 7.2 Circumstance

Circumstance means an incident, occurrence, fact, matter, act or omission that may give rise to a Claim in respect of Civil Liability.

# Professional indemnity liability policy (continued)

## 7.3 Civil Liability

Civil Liability includes liability to pay an amount in accordance with the recommendation of the Legal Services Ombudsman or any regulatory authority by whose rules the Insured is bound.

## 7.4 Claim

Claim means a demand for, or an assertion of a right to, civil compensation or civil damages or an intimation of an intention to seek such compensation or damages. For these purposes, an obligation on a Firm and/or any Insured to remedy a breach of the Solicitors' Accounts Rules 1998 (as amended from time to time) or any rules that replace the Solicitors' Accounts Rules 1998 in whole or in part shall be treated as a Claim and the obligation to remedy such breach shall be treated as a Civil Liability for the purposes of clause 1, whether or not any person makes a demand for, or an assertion of a right to, civil compensation or civil damages or an intimation of an intention to seek such compensation or damages as a result of such breach.

## 7.5 Claimant

Claimant means a person or entity that has made or may make a Claim, including a Claim for contribution or indemnity.

## 7.6 Defence Costs

Defence Costs means legal costs and disbursements and investigative and related expenses reasonably and necessarily incurred with the Insurer's prior written consent (such consent not to be unreasonably withheld):

- (a) in defending any proceedings relating to a Claim; or
- (b) in conducting any proceedings for indemnity, contribution or recovery relating to a Claim; or
- (c) in investigating, reducing, avoiding or compromising any actual or potential Claim; or
- (d) in acting for an Insured in connection with any investigation, inquiry or disciplinary proceeding. Defence Costs does not include any internal or overhead expenses of the Firm or the Insurer or the cost of the Insured's time or any Value Added Tax insofar as the Insured can recover such Value Added Tax from HM Customs and Excise.

## 7.7 Employee

Employee means any person other than a Principal:

- (a) employed or otherwise engaged in the Firm's Practice (including under a contract for services) including, without limitation, as a solicitor, lawyer, trainee solicitor or lawyer, consultant, associate, locum tenens, agent, appointed person (as defined in the Solicitors' Indemnity Insurance Rules 2006), office or clerical staff member or otherwise; or
- (b) seconded to work in the Firm's Practice; or
- (c) seconded by the Firm to work elsewhere.

Employee does not include any person who is engaged by the Firm under a contract for services in respect of any work where that person is required, whether under the Solicitors' Indemnity Insurance Rules in force from time to time or under the rules of any other professional body, to take out or to be insured under separate professional indemnity insurance in respect of that work.

## 7.8 Excess

The Excess means the first amount of a Claim that is not covered by the Policy.

## 7.9 Firm

The Firm means the partnership (as constituted at the commencement of, prior to and from time to time during the Period of Insurance) or the sole practitioner, Recognised Body or limited liability partnership specified in the Schedule.

## 7.10 Firm's Practice

The Firm's Practice means the Private Legal Practice carried on by the Firm, any Prior Practice and/or any Successor Practice.

## 7.11 Insured

Insured means each and all of the following persons or legal entities each being severally insured hereunder:

- (a) the Firm; and
- (b) each Principal, each former Principal, and each person who may become a Principal of the Firm during the Period of Insurance; and

# Professional indemnity liability policy (continued)

- (c) each service, administration, trustee or nominee company owned as at the date of occurrence of relevant Circumstances by the Firm and/or the Principals of the Firm; and
- (d) each Employee, each former Employee and each person who during the Period of Insurance becomes an Employee of the Firm or a company referred to in paragraph (c); and
- (e) the estate or legal personal representatives of any deceased or legally incapacitated person referred to in paragraphs (b) or (d).

## 7.12 Insurer

The Insurer means Zurich Insurance Company and/or Zurich Insurance Ireland Limited.

## 7.13 Minimum Terms

Minimum Terms means the Minimum Terms and Conditions of Insurance referred to in the Solicitors' Indemnity Insurance Rules in force from time to time with which this Policy is required to comply.

## 7.14 One Claim

All Claims against any one or more Insured(s) arising from:

- (a) one act or omission; and/or
  - (b) one series of related acts or omissions; and/or
  - (c) the same act or omission in a series of related matters or transactions; and/or
  - (d) similar acts or omissions in a series of related matters or transactions; and/or
  - (e) one matter or transaction;
- will be regarded as One Claim.

## 7.15 Partnership and Partner

Partnership means an unincorporated Firm, and does not mean a Firm incorporated as a limited liability partnership, and Partner means a partner in an unincorporated Firm.

## 7.16 Period of Insurance

The Period of Insurance means the period specified in the Schedule or any endorsement thereto.

## 7.17 Principal

Principal means in relation to:

- (a) a Recognised Body or other body corporate that is a company – each director or officer of that body and any person held out as a director or officer; and
- (b) a Recognised Body that is a limited liability partnership – each member of that body; and
- (c) a Partnership – each Partner of that firm and any person held out as a Partner (and where a Recognised Body is a Partner – each director and officer of that body and each person held out as a director or officer, if the body is a company; and each member of that body if the body is a limited liability partnership); and
- (d) a sole practitioner – that practitioner.

## 7.18 Prior Practice

Prior Practice means each practice to which the Firm is ultimately a Successor Practice by way of one or more mergers, acquisitions, absorptions or other transitions.

## 7.19 Private Legal Practice

Private Legal Practice means the provision of services in private practice as a solicitor or Registered European Lawyer including, without limitation:

- (a) providing such services in England, Wales or anywhere in the world, whether alone or with other lawyers in a Partnership permitted by rule 7(6) of the Solicitors' Practice Rules 1990, or a Recognised Body; and
- (b) the provision of such services as a secondee of the Firm; and
- (c) the acceptance and performance of obligation as executor, trustee, attorney, insolvency practitioner or other personal appointment to the extent that any fees or other income accrue to the benefit of the Firm's Practice; and
- (d) the acceptance and performance of obligation as notary; and
- (e) the provision of such services by any Employee.

# Professional indemnity liability policy (continued)

Private Legal Practice does not include practising as an Employee of an employer other than a solicitor, a Registered European Lawyer, a Partnership permitted by rule 7(6) of the Solicitors' Practice Rules 1990, or a Recognised Body.

## 7.20 Recognised Body

Recognised Body means a body corporate for the time being recognised under Section 9 of the Administration of Justice Act 1985.

## 7.21 Relevant Recognised Body

Relevant Recognised Body means a Recognised Body other than:

- (a) 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
- (b) a nominee company only, holding assets for clients of another practice: and
  - (i) it can only act as agent for the other practice; and
  - (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.

## 7.22 Successor Practice

Successor Practice means a Firm (partnership, sole practitioner or Recognised Body) resulting from a merger, acquisition, absorption or other transition following which the practice succeeded to is no longer being carried on as a discrete business where:

- (a) the Firm holds or held itself out, expressly or by implication, as being the successor of the practice, or as incorporating the practice, whether such holding out is contained in notepaper, business cards, electronic communication, publications, promotional material or otherwise, or is contained in any statement or declaration by the Firm to any regulatory or taxation authority; or

(b) the practice was a partnership and either:

- (i) the majority of the Principals of the practice have become Principals of the Firm; or the majority of the Principals of the practice have not become Principals of another practice but one or more of the Principals of the practice have become Principals of the Firm and one or more of the following apply:

- (aa) the Firm is carried on under the same name as the practice or under a name that substantially incorporates the name of the practice (or a substantial part of the name of the practice);
- (bb) the Firm is carried on from the same premises as the practice;
- (cc) the Firm acquired the goodwill and/or assets of the practice;
- (dd) the Firm assumed the liabilities of the practice;
- (ee) the majority of staff employed by the practice become Employees of the Firm; or

(c) the practice was a sole practitioner and the transition occurred on or before 31 August 2000 and the sole practitioner is a Principal of the Firm; or

(d) the practice was a sole practitioner and the transition occurred on or after 1 September 2000 and the sole practitioner is a Principal or Employee of the Firm; or

(e) the practice was a Recognised Body and that Recognised Body is a Principal of the Firm.

Except that a Firm shall not be a Successor Practice under paragraphs (b), (c), (d) or (e) if another practice holds or held itself out as a successor of the practice or as incorporating the practice provided that other practice has insurance complying with the Minimum Terms.

# Our complaints procedure

Zurich Professional is committed to providing a high level of service to all its customers. However, if you have any cause for complaint you should in the first instance, contact either the intermediary who arranged the policy for you, or Zurich Professional directly. Please quote the details of your policy, in particular, the policy number.

If the matter is not resolved to your satisfaction, please contact the Operations Manager of Zurich Professional.

If you are still not satisfied, please contact:

Chief Executive's Office  
The Grange  
Bishops Cleeve  
Cheltenham  
Gloucestershire  
GL52 8XX

Telephone: 0845 601 4937

Email: [chiefexecutive@uk.zurich.com](mailto:chiefexecutive@uk.zurich.com)

A member of the Chief Executive's Office will respond to your complaint and offer resolution wherever possible.

If we are unable to resolve your complaint to your satisfaction within 8 weeks, or if we have provided you with a final decision letter, you may be able to refer your complaint to the Financial Ombudsman Service (FOS). This is a free and impartial service.

Financial Ombudsman Service  
South Quay Plaza  
183 Marsh Wall  
London  
E14 9SR

Telephone: 0845 080 1800

Email: [complaint.info@financial-ombudsman.org.uk](mailto:complaint.info@financial-ombudsman.org.uk)

The FOS will only consider your complaint if, at the time of notification, you are a business with a group annual turnover of less than £1 million, a charity with an annual income of less than £1 million or a trustee of a trust with a net asset value of less than £1 million.

Following the complaints procedure does not affect your legal rights.