Law Council
OF AUSTRALIA

Inquiry into the potential for competition reforms regarding solicitors' professional indemnity insurance

New South Wales Parliament, Legislative Council Select Committee into the Potential for Competition Reforms Regarding Solicitors' Professional Indemnity Insurance

15 September 2026

Telephone +61 2 6246 3788
Email mail@lawcouncil.au
PO Box 5350, Braddon ACT 2612
Level 1, MODE3, 24 Lonsdale Street,
Braddon ACT 2612
Law Council of Australia Limited ABN 85 005 260 622
www.lawcouncil.au

Contents

Introduction	1
Orienting this Inquiry	1
How the legal profession differs from other professional sectors	4
Access to justice considerations	5
The unique role of professional indemnity insurance for solicitors	5
Issues to be avoided in maintenance of PII schemes	8
Advantages in the single provider model	10
International experiences	11
Conclusion	13
About the Law Council of Australia	14

Introduction

1. The Law Council of Australia welcomes the opportunity to make a submission to the inquiry, and assist the inquiry by presenting the views and experiences of the national peak body for the Australian legal profession. In this role we are well placed to comment on the approaches that best support the imperative of consumer protection, the long-term focus for the good governance of the legal profession, and international learnings and perspectives.

2. At the outset it is important to stress that solicitors' law practices are unique providers of services. Solicitors are officers of the courts, owing duties to the administration of justice as well as their clients. Law firms perform a special role for their clients and the communities they serve as highly trusted and accountable legal advisors, as enablers and facilitators of legal processes, and as custodians of safe custody documents for the public and keepers of funds in trust. This role is broader and deeper than merely being the provider of transactional services. Protection of the public, together with maintenance of the integrity of the legal profession and the justice system, are key considerations. Consequently, professional indemnity insurance is deeply embedded in legal profession regulation. This reflects a profound public interest in the provision of high-quality legal services, the sustained long-term operation of law practices, access to legal services, and the protection of consumers of legal services.

Orienting this Inquiry

3. We note that the Select Committee was established to inquire into and report on the potential for competition reforms regarding solicitors' professional indemnity insurance, and in particular:

    - the impact of the current settings resulting in an effective monopoly provider, namely, Lawcover;
    - current pricing and opportunities to drive competition via new market entrants;
    - avenues of legislative reform allowing for competition in the market; and
    - any other related matters.[1]

4. The present inquiry is usefully oriented in the landscape of the ongoing consideration of the best and most appropriate arrangements for the provision of professional indemnity insurance arrangements for solicitors in New South Wales.

5. Professional indemnity insurance arrangements for solicitors, particularly in New South Wales, have been shaped by two significant historical events:

    - Developments in the law of negligence in Australia from the mid-1970s onward expanded liability for economic loss, leading to a substantial increase in both the number claims and the quantum of damages awards in tort against professionals (who were seen as people of financial substance and likely to be carrying insurance). Among numerous identified consequences were the

[1] New South Wales Legislative Council, Hansard, 5 August 2026.

adverse impacts on professional indemnity insurance costs and availability, and the preparedness among professionals to seek insurance at all or to provide certain services. Beginning with the *Professional Standards Act* enacted by New South Wales in 1994, all States and Territories have legislation in place (and the Commonwealth has enacted supporting legislation) for professional standards schemes. These seek to limit occupational liability by placing a statutory cap on civil liability, provided that professionals participating in a scheme are subject to a compulsory minimum level of indemnity insurance, and that other professional responsibility and regulatory measures are in place (such as codes of conduct, compliance monitoring and risk management, ongoing professional development obligations, and complaints and disciplinary procedures).[2]

- The significant failure of the commercial insurance market in the fall of HIH Insurance group in March 2001, with loses of between $3.6 billion and $5.3 billion. The Commonwealth Treasury cited this collapse as the "largest corporate failure in Australian history".[3] The impact of that legacy event established much of the policy structures and responses we see today in the regulation of solicitors' professional indemnity insurance—a focus on sound governance and long-term stability.

6. The present inquiry also sits against the background of significant microeconomic reforms since the adoption by all Australian governments of the national competition policy principles and recommendations of the 1993 Hilmer Report,[4] including the establishment of competitive national markets for goods and services. These reforms are based on principles of mutual recognition of professional and occupational licensing, and uniformity—or, at least, harmonisation of professional and occupational regulation.

7. The legal profession has not been isolated from these issues and considerations. The national competition policy principles articulated in the Hilmer Report underpinned the Law Council's 1994 *Blueprint for the Structure of the Legal Profession: A National Market for Legal Services*, which flowed into the work adopted nationally in the model Legal Profession Acts (from 2002–2006) and subsequently in the COAG National Legal Profession Reform process (2009–2010) and the current iteration of the *Legal Profession Uniform Law* (from 2015).

8. Since the collapse of HIH, the position on arrangements for solicitors' professional indemnity insurance has been considered many times, most notably by the Productivity Commission in its *Inquiry into Access to Justice Arrangements* (2013–2014). The Productivity Commission questioned the need for continued legal profession specific regulation. The Commission consulted on a draft recommendation[5] that State and Territory governments should remove sector-specific requirements for approval of individual professional indemnity products for lawyers, and that all insurers wishing to offer professional indemnity insurance

---

2 *National Competition Policy Review of the Professional Standards Act 1994: Issues Paper*, NSW Attorney General's Department, May 2001.
3 The rise and fall of HIH Insurance Group | Treasury.gov.au.
4 https://ncc.gov.au/images/uploads/Hilmer-001.pdf
5 Productivity Commission 2014, *Access to Justice Arrangements,* Draft Report, Canberra [51], [238]-[239].

products need only, instead, to be approved by the Australian Prudential Regulation Authority (**APRA**).

9. The Law Council's submission[6] in response to the draft recommendation noted that single supplier arrangements in the states have been periodically reviewed and that the (then recent) review findings had included:

    - the 2001 Taylor Fry Report on Actuarial and Related Advice in relation to the provision of Professional Indemnity Insurance to solicitors in NSW, prepared in the wake of the HIH collapse, recommending the continuation of the Lawcover single provider model to best serve the long-term interests of all parties;
    - the 2004 PricewaterhouseCoopers (PwC) Review conducted for the Victorian Department of Justice recommending the continuation of "single supply arrangements" in Victoria for solicitors (and its extension to barristers) as achieving an appropriate balance between providing adequate consumer protection and ensuring stable and affordable professional indemnity insurance cover for legal practitioners, resulting in a net benefit to society; and
    - the 2009 COAG National Legal Profession Reform Project position on Professional Indemnity Insurance proposing to retain the existing professional indemnity insurance framework (including minimum national standards for all policies) as the market and arrangements in place had not changed to warrant a re-examination.[7]

10. In each of these instances the continuation of the current arrangements had been preferred by the jurisdictions concerned due to the unique nature and role performed by professional indemnity insurance for solicitors, but with a commitment to maintain an ongoing consideration of whether competition may bring further benefits.

11. In its final report the Productivity Commission, after noting and discussing the various opposing positions and considerations, expressed the view that it did not accept the proposition that a single provider model is inherently superior to a multiple provider model. However, this view was prefaced by the observation that "a detailed examination of the relative merits of different models for providing professional indemnity insurance is beyond the scope of this inquiry". [8]

12. The Law Council maintains the position set out in our 5 June 2014 submission to the Productivity Commission, opposing an open market approach under which an insurance provider need only be APRA-regulated in order to offer professional indemnity insurance products to solicitors. The reasons for the Law Council maintaining its position on this issue are set out below.

---

6 https://lawcouncil.au/publicassets/2361483d-e1d6-e611-80d2-005056be66b1/140605-Submission-2837-Productivity-Commission-Draft-Report-Access-Justice-Arrangements.pdf at [33]-[36]

7 https://dcj.nsw.gov.au/legal-and-justice/students-and-legal-professionals/coag-national-legal-profession-reform/document-library.html#Taskforce5

8 Productivity Commission 2014, *Access to Justice Arrangements*, Inquiry Report No. 72, Canberra, [260-265]

How the legal profession differs from other professional sectors

13. Competition policy generally assumes that services are provided within a commercial market where consumer choice and price competition are the primary drivers of efficiency and innovation. While those principles are important, the legal profession occupies a distinctive position within Australian society and the administration of justice.

14. Solicitors are not providers of professional services alone. They are officers of the court and participants in a system essential to the maintenance of the rule of law. Their ethical duties and professional responsibilities extend beyond their clients and include duties to the courts and the administration of justice. This institutional role distinguishes legal practice from many other professions whose obligations are primarily owed to clients or customers. Put another way, the institutional role and nature of the client–practitioner relationship is not governed by what may be considered an ordinary or typical commercial relationship.

15. The legal profession also performs functions that are integral to the operation of fundamental civic and commercial institutions. Solicitors facilitate the resolution of disputes, the transfer of property, the conduct of commercial transactions, the protection of individual rights and liberties, and access to the courts. In performing these functions, they act as trusted intermediaries between the community, businesses and the legal system itself.

16. The public therefore has an interest in the continued availability, integrity and stability of legal services that extends beyond the interests of individual consumers. The consequences of systemic disruption within the legal profession are not limited to individual commercial relationships. They can affect confidence in legal institutions, access to justice, the orderly conduct of commercial activity and the effective functioning of courts and tribunals.

17. It is for these reasons that legal practice has historically been subject to forms of regulation that would be unusual in many other sectors. Admission, practising certificates, trust accounting obligations, professional conduct requirements, fidelity arrangements and compulsory insurance work together to ensure that the community can place confidence in those authorised to provide legal services, and in the availability and adequacy of redress mechanisms if things go wrong.

18. Reforms affecting the arrangements underpinning legal practice must be assessed against the distinctive public functions performed by the profession and the broader public interest in maintaining confidence in the administration of justice.

Access to justice considerations

19. Access to justice is a foundational feature of our society and the rule of law. Access to justice depends upon the availability of a viable, geographically dispersed and professionally diverse legal profession.

20. The provision of legal services in Australia remains characterised by a large number of practices with 1–5 practitioners, with the majority being practitioners in sole practice. Many of these practices operate in regional, rural and outer metropolitan communities where consumers have a limited choice of legal service provider. These practitioners also undertake work in areas that are essential to the public interest (such as criminal law, family law, wills and estates, and elder law) where demand is significant but commercial returns may be modest.

21. The public interest is particularly acute in regional and remote Australia. In many communities, the departure or closure of even a small number of firms can have a disproportionate effect on access to legal assistance. Reduced local availability of legal services may require individuals to travel significant distances, incur greater costs, or forgo obtaining legal advice altogether.

22. Access to justice is also relevant to the orderly functioning of legal institutions. Courts, tribunals, government agencies and commercial markets all depend upon the availability of competent legal practitioners to facilitate transactions, resolve disputes and assist parties to navigate legal processes. The continued availability of legal services therefore has broader social and economic significance.

The unique role of professional indemnity insurance for solicitors

23. While the October 2024 Deloitte Report identified some potential benefits of an open market, such as greater price competition and innovation, it properly orients professional indemnity insurance for solicitors in its unique position:

> *… there are several aspects of the market for solicitors' PII that make it distinctive from a standard market: the product is designed to protect solicitors' customers, it is mandated, it can work as a form of regulation (but may do this best when provided by a professional body), and that it generates data which may assist with risk management programs.*[9]

24. In particular, the Deloitte Report identified seven dimensions where the PII market for solicitors was distinct from normal commercial insurance operations and needed to be carefully understood in any competition analysis to avoid an overly simplistic assessment:[10]

    - Professional indemnity insurance is cover for the acts or omissions of a professional advisor which creates liability rather than external factors. This form of insurance has a direct connection to the policyholder's skills, business

---

[9] Deloitte, *Expert Report concerning Solicitors' Professional Indemnity Insurance in NSW*, October 2024, [5] accessed at https://dcj.nsw.gov.au/documents/legal-and-justice/laws-and-legislation/deloitte-report-solicitors-professional-indemnity-insurance-nsw.pdf

[10] Ibid, [31]–[33].

practices, conduct and risk appetite, and accordingly provides a unique opportunity to shape the behaviours of those professionals through policy coverage.

- Liability is long-tailed, given there can be a significant period between the provision of defective advice or service and when a claimant may suffer actual loss. This requires arrangements to be longer term in nature and to respond to historic events. This necessitates longevity in coverage and claims handling and speaks against volatility of participation in the market. Claims can arise long after an insurer or a law practice has left the market in a more dynamic commercial environment. The inclusion of run-off cover in existing single provider policies is a key element of the long-term nature of this type of insurance arrangements.

- The inherent complexity of legal practice and legal disputes can make it difficult to predict claim outcomes and assess liability. This:
  - requires highly skilled underwriting with a deep knowledge of both legal practice and the nature of legal liability, and
  - affects claims management, risk assessment, risk education and market engagement.

- The primary purpose of solicitors' professional indemnity insurance is to protect clients of the insured rather than the policyholder. The compulsory nature of these arrangements introduces complexity and tends to move the nature of the insurance product away from a commercial contractual relationship into one founded on broader consumer protection principles with a semi-regulatory objective. In the single provider model this fundamental tenet seeks to provide universal coverage as a measure of professional collective responsibility for claims and ensuring outcomes for clients.

- The mandated or compulsory product nature of the insurance is different to most commercial market policies as a solicitor does not have the option to choose to not take out cover. This is, again, driven by the consumer protection purpose of the arrangements, but is also predicated on there being an insurer who is willing or able to provide cover in all aspects of the insurance cycle. The mandated nature of the arrangement as a measure of professional collective responsibility also emphasises the cross-subsidy of this specific insurance arrangement. The collective pool of contributions across the risk profiles of all practices is at the core of a scheme's long-term success or demise.

- Insurance, as a form of regulation of activity, is a further complicating factor in solicitor professional indemnity insurance, as it can be used to change behaviour away from activities with risk or which do not further the consumer protection imperative. Claims data can drive policy responses which have a real-world impact on the nature of legal practice. For this to be most effective, the insurance function and professional guidance function need to be closely associated.

- The opportunity for feedback loops to reduce risk is a final element cited by Deloitte as a matter of complexity and closely follows the regulation point. This speaks to the risk-management and educational purpose of insurance activities, which exists if an insurance scheme is operated within the broader consumer protection mandate, where data and claims experience is collected and analysed, and effort is directed towards risk-management education and development for insured law practices to lift the standard of legal practice.

  On this point, most saliently, the Deloitte Report includes:

  According to Morgan and Hanrahan: "One observation of a number of the PII arrangements is that where there is a close connection between the relevant professional body and the insurer or insurers there is more active feedback to the professional groups on risk management and the causes of claims. For example, Lawcover provides premium discounts for meeting certain risk management requirements. These risk management requirements are informed by their claims analysis and the publication of information on a regular basis. This alerts members to take particular care in certain areas. The other legal professional associations take a similar approach."[11]

25. The combined effect of these complexities and issues puts professional indemnity insurance for solicitors in a unique position. It is affected by more than the usual commercial drivers and imperatives that operate in many other fields of insurance, including:

    - the consumer protection imperative;
    - the semi-regulatory function of the insurance policy operating to facilitate behaviour change; and
    - feedback loops for risk management and education.

26. Solicitors' professional indemnity insurance must be considered in a somewhat different class of operation than standalone commercial insurance policies.

    Contemporary professional indemnity insurance schemes for solicitors have become sophisticated, nuanced and broader undertakings which play an integral part in the good governance of the legal profession and the maintenance of public trust in the institution of the law through having consumer protection as their over-riding imperative.

27. It is undesirable to effect change to this balance without significant detailed analysis conducted through the lens of the many unique dimensions attached to these schemes demonstrating a significant benefit to consumers of legal services, legal practitioners and the public confidence in the administration of justice.

---

[11] Morgan, JK and Hanrahan, P 2017, "Professional Indemnity Insurance: Protecting Clients and Regulating Professionals", Thematic: Professional Indemnity Insurance, 3: 368.

Issues to be avoided in maintenance of PII schemes

28. Given the broader mandate of existing PII schemes there are issues to be avoided in any consideration of competitive reforms, particularly if those factors where to unintentionally endanger the consumer protection outcome of the broader arrangements.

29. The longevity, stability and longer-term focus of existing professional indemnity schemes stand in contrast to short-term offerings of insurance "products". General insurers have no obligation to renew a contract of insurance. It is for this reason that the profession has had to develop its own sector-specific professional indemnity insurance arrangements. These profession-led arrangements have even had to fill gaps vacated by commercial providers at short notice to ensure the continuity of legal practice can be maintained in some cases. There is little public benefit in introducing insecurity into compulsory insurance arrangements, which underpin the right to practice serving the community.

30. In tandem with the risk of instability in schemes, the nature of the commercial insurance cycle is such that premiums fluctuate as the cycle progresses and as competitive factors wax and wane. At present, market conditions support a "soft" insurance market when insurance coverage is widely available and premiums are lower. Reductions in interest rates and the development of adverse events can trigger decisions by insurers to tighten their underwriting and raise premiums to protect profitability. This results in a hardening of the market. It should be emphasised that, although clients are significant beneficiaries from compulsory professional indemnity schemes, they gain, at most, a slight indirect benefit if the premiums paid by legal practitioners are reduced. Premium volatility in the short-term may benefit some individual practitioners, but it is unlikely to benefit clients directly and may significantly disadvantage clients generally if the nature of the cross-subsidisation in the existing market is disrupted.

31. The current single source suppliers of insurance have an obligation to insure each and every practice in the jurisdiction, irrespective of size or claims history. Unlike the commercial insurance market, where insurers can "pick and choose" the risks insured so as to maximise returns, the single source suppliers of insurance cannot refuse coverage to what could be seen as uncommercial risks. The principle of universal coverage is one which flows from the compulsory nature of the insurance and is predicated upon maintenance of appropriate cross-subsidisation and a purposeful commitment to long-term engagement in order to fulfil the imperative of consumer protection. A key issue in selective competitive approaches is the risk that some practices could not access affordable insurance or that a scheme participant becomes unviable due to being placed only as the insurer of last resort.

32. The universal insurance philosophy of consumer protection reflects the principles of access to justice by:

    - guaranteeing that small practices—sole principal firms represent the bulk of practices—can obtain insurance which may not otherwise be available at an affordable price, thereby permitting them to continue to serve the community; and

- providing comfort to consumers that, should a claim need to be made against a practitioner, a comprehensive insurance policy sits behind each practice.

33. To step beyond the universal insurance philosophy into a more competitive market is to pose a significant regulatory challenge in the operation of the PII market, requiring additional consumer protection measures for insureds and claimants. The conduct of competitors would need to be closely policed to ensure that:

    - discounting behaviours were not temporary, or used to grow market share quickly before being removed, and
    - discounting doesn't breach basic risk premium floors to ensure continued operation.

34. The current paradigm in the universal coverage schemes is one of stability, affordability, longevity and best possible cover. To shift this paradigm to one based on price competition alone is not only to reorient existing schemes away from their consumer protection basis, but also risks behaviours that focus selective portfolio building. Competitive entrants are likely to target lower-risk firms, leaving higher-risk firms concentrated in the residual scheme. This adverse-selection dynamic may progressively weaken the financial sustainability of the insurer required to maintain universal coverage.

35. The competitive market for insurance also presents a greater barrier to entry for new firms and new participants. Without an insurance history and claims experience there is risk in taking in a new law firm into an insurance arrangement. Under the universal coverage model of the existing schemes, the new entrant is treated the same as any existing firm; in the commercial market a new entrant is normally charged a higher initial premium to accommodate the additional risk that the absence of an insurance history brings. This is a highly undesirable result if increased premiums for new entrants present greater barriers to entry for new firms and preference existing known firms with good claims experience.

36. A further issue that arises in a move away from the universal coverage model toward a competitive scheme is one of transfer of responsibility for determining who can practice law away from regulatory bodies to the insurance industry. We have already discussed the practical issues in a mixed model of commercial and universal coverage approaches. Moving to a commercial approach to insurance must therefore mean that some firms cannot access insurance. This is now the case in England and Wales, where a firm that cannot afford insurance or obtain a policy must cease to practice. This is a regulatory outcome being created outside of the regulatory framework. Not only is this outcome contrary to public policy, but it is also subject to the fluctuations of the insurance cycle. While insurers may be more open in times of a soft market to extending cover, when the market hardens the risk threshold necessarily increases and the available pool of insurance decreases. This may mean that otherwise viable law firms in more risk sensitive indicia, such as a sole practitioner in conveyancing, may be unable to place cover and must cease to service their clients. Such a result has a significant negative outcome for the community and is also problematic from the point of view of continued administration of safe custody documents held by the now defunct law firm. The public interest is best served by the continuation of viable law practices as a public service through universal insurance coverage.

Advantages in the single provider model

37. Competition can produce significant benefits. However, as has been seen, compulsory PII is not an ordinary insurance product. It performs a regulatory and consumer-protection function as well as providing financial protection to practitioners. Its success should therefore be measured not simply by the premium available to an individual law practice in a particular year, but by whether the system provides broad, affordable, stable and sustainable insurance to the profession as a whole over the long term.

38. There are many advantages inherent in the single provider model including:

    - pooling risk across the profession;
    - maintaining access to insurance for practices that may be less commercially attractive to private insurers;
    - retaining capital for the benefit of the insured profession and clients into the future;
    - reducing premium volatility across insurance cycles;
    - maintaining broad cover as professional risks evolve;
    - developing specialist claims-management expertise;
    - collecting whole-of-profession claims data and using that data to prevent future claims; and
    - protecting consumers by reducing both the incidence of professional negligence and the risk that a valid claim will be uninsured.

39. These advantages are likely to become more important as the nature, scale and complexity of professional risk increase.

40. The most important long-term advantage of a collective scheme may be its capacity to maintain the insurability of the profession.

41. The nature and scale of professional risk are changing. Legal practices increasingly confront risks associated with:

    - sophisticated cybercrime and social engineering;
    - electronic funds transfers;
    - privacy and data breaches;
    - increasing transaction values;
    - large concentrations of client money;
    - artificial intelligence and automated legal services;
    - technology failures;
    - increasingly complex regulatory obligations; and
    - other systemic risks that may affect many insured practices simultaneously.

42. There is a tendency to assume that increasing risk simply produces increasing premiums.

43. An insurer confronted with deteriorating risk has several options. It can increase premiums or excesses, reduce limits, introduce sub-limits, impose additional

conditions, narrow the insuring clause, introduce exclusions, decline particular categories of work or insureds, or withdraw from the market.

44. There is a point at which a risk does not merely become more expensive to insure; it becomes excluded from insurance.

45. The broader economic reality is that, when a category of risk becomes sufficiently difficult to price within a general PII product, an insurer may restrict rather than merely reprice that risk. For compulsory PII this presents a public-policy problem. A compulsory insurance regime has limited value if the categories of liability most likely to cause substantial future loss progressively fall outside the policy.

46. The appropriate measure of a compulsory PII system is therefore not simply whether a policy remains available. It is whether **meaningful cover remains available for the risks that matter**.

47. A collective scheme with a long-term view and the ability to maintain cross-subsidisation by using surpluses from soft insurance cycle years in harder cycle times is best positioned to maintain broader policy coverage when commercial underwriting economics would tend toward restrictions.

48. Long term arrangements operated by single providers best permit good years to support bad years. This is a form of intergenerational insurance based on the premise of collective professional responsibility within the legal profession.

International experiences

49. In 2000, England and Wales transitioned from the single provider Solicitors Indemnity Fund (**SIF**) to an open market for professional indemnity insurance.

50. The Law Council understands the transition represented a significant change with several consequences for both the legal profession and consumers of legal services:

    - Insurers differentiated between firms according to factors such as claims history, practice profile, governance arrangements, financial performance and risk-management processes.
    - Disruptions experienced since the transition have tended to arise from exposure to insurance market cycles. We understand that, during periods of reduced insurer appetite, firms have experienced significant premium increases and a more challenging renewal environment which has threatened their continued ability to practice.
    - The Assigned Risks Pool (**ARP**) was initially introduced as a safety net for firms unable to obtain cover in the open market but ultimately proved difficult to sustain as it became concentrated with firms presenting higher underwriting risks. It was eventually abolished in 2013, with the effect that firms that were unable to find PII cover in the open market were forced to close. At the time of the abolition of the ARP, 175 firms were reported to be facing closure due to

lack of cover.[12] A sixfold increase in the number of firms closing due to lack of insurance in the five year to 2020 was reported by Audit firm Mazars, noting the pandemic had created a hard insurance market—"Increases in premiums have come as insurers looked to reduce their exposure to what they consider a largely unprofitable market or even quit it entirely," said Mazars.[13] The number of firm closures due to lack of access to insurance was reported as 37 firms in the year to 30 June 2022.[14] 102 law firms reported not being able to place insurance in 2023 and 21 firms closed in the year to 30 June 2024.[15]

- There is a greater importance attached to the financial strength and continued participation of individual insurers. Insurer withdrawal from the market, and in some cases insurer insolvency, have demonstrated that insurer resilience and dedication can become an issue of concern.
- Insurers are able to target premiums towards firms and practice areas that they perceive as carrying greater risk and create distortions in the cost of services to consumers. The Frontier Economics Report of 2023[16] prepared for the Solicitors Regulatory Authority and Legal Services Board indicated that, while law firm premiums were typically in the band of between 3% and 9% of gross turnover in England and Wales, the insurance impost on a regular conveyancing transaction accounted for between 8% and 12% of the average cost of the service. This compared with between 2% and 7% insurance impost on the cost of an uncontested divorce.
- The Law Society of England and Wales advises that PII survey results from the hard market of 2023 noted that insurance premiums for sole practitioners and firms with 2 to 4 partners amounted to 6% of gross fees, while larger firms saw premiums of 4% on average. The survey also found that the average premium for firms that had conducted conveyancing were double (at 8% of gross fees) the average of firms that never provided conveyancing (at 4% of gross fees). The survey also indicated that "[f]irms where the majority of partners are Black, Asian and minority partners, and those arranging more expensive cover, are more likely to find the renewal process difficult …"[17]
- There is no general regulatory requirement in England and Wales for participating PII insurers to provide risk-management training or support services to insured firms. While many insurers do provide a range of resources as part of their commercial offering, the availability and scope of risk-management support vary between insurers.
- Insurers now exert considerable influence on law firms through underwriting and renewal requirements. Firms are typically required to provide detailed information concerning governance, supervision, claims history, complaints management, financial stability and risk controls to access insurance policies.

---

12 https://www.lawgazette.co.uk/practice/175-firms-face-closure-after-failing-to-secure-insurance/5038067.article

13 https://www.irishlegal.com/articles/england-rise-in-cost-of-indemnity-cover-leads-to-law-firm-closures

14 https://www.insurancetimes.co.uk/news/soaring-pi-costs-causing-law-firms-to-close-hazlewoods/1443518.article

15 https://www.hazlewoods.co.uk/insights/legal/legal-update-21-law-firms-forced-to-close-due-to-lack-of-professional-indemnity-insurance/

16 Frontier Economics Limited, *Econometric analysis of professional indemnity insurance costs for legal service providers*, September 2023, [6].

17 PII-Report-Summary-2023.pdf – Subscribers only - https://www.lawsociety.org.uk/topics/research/trends-in-professional-indemnity-insurance-for-law-firms-2023,

We understand that insurers may then impose additional requirements or restrictions on firms before they will provide cover (outside any requirement of the legal profession regulator).

51. These experiences are in stark contrast to the experience of law firms and clients in Australia where premium stability and a degree of insulation from the effects of the insurance cycle operate to the broader public interest.

Conclusion

52. Given the unique role of solicitors as more than merely transactional service providers and the over-riding considerations of access to justice and consumer protection, it is clear that the position of compulsory professional indemnity insurance for solicitors is different to other commercial markets. These factors of difference demonstrate that the public interest is best served by the stability and universal coverage principles of a single provider model. The experience in Australia is quite different to that of England and Wales where PII has become a restrictor rather than facilitator of legal practice in the public interest.

53. For these reasons, the Law Council submits that reforms affecting the arrangements underpinning legal practice must be assessed against more than competition imperatives but rather against the distinctive public functions performed by the profession and the broader public interest in maintaining confidence in the administration of justice. This long-term perspective militates against volatility and speaks for the multifaceted benefits brought about by single provider models built upon the principle of professional responsibility to act in the public interest.

About the Law Council of Australia

The Law Council of Australia represents the legal profession at the national level; speaks on behalf of its constituent bodies on federal, national, and international issues; promotes and defends the rule of law; and promotes the administration of justice, access to justice, and general improvement of the law.

The Law Council advises governments, courts, and federal agencies on ways in which the law and the justice system can be improved for the benefit of the community. The Law Council also represents the Australian legal profession overseas, and maintains close relationships with legal professional bodies throughout the world. The Law Council was established in 1933, and represents its constituent bodies:

- the Australian Capital Territory Bar Association;
- the Law Society of the Australian Capital Territory;
- the New South Wales Bar Association;
- the Law Society of New South Wales;
- the Northern Territory Bar Association;
- the Law Society Northern Territory;
- the Bar Association of Queensland;
- the Queensland Law Society
- the South Australian Bar Association;
- the Law Society of South Australia;
- the Tasmanian Bar;
- the Law Society of Tasmania;
- the Victorian Bar Incorporated;
- the Law Institute of Victoria;
- the Western Australian Bar Association;
- the Law Society of Western Australia; and
- Law Firms Australia.

Through these bodies, the Law Council represents more than 110,000 Australian lawyers.

The Law Council is governed by a board of 23 Directors: one from each of the constituent bodies, and six Executive members elected by Directors. The Directors meet quarterly to set objectives, policy, and priorities for the Law Council. Between Directors' meetings, responsibility for the policies and governance of the Law Council is exercised by the Executive members, led by the President. In 2026, the Law Council Executive comprises:

- Ms Tania Wolff, President
- Ms Elizabeth Shearer, President-elect
- Mr Lachlan Molesworth, Treasurer
- Ms Jennifer Ball, Executive Member
- Mr Justin Stewart-Rattray, Executive Member
- Mr Ante Golem, Executive Member

The Chief Executive Officer of the Law Council is Dr James Popple.

The Law Council's Secretariat is based in Canberra. Its website is www.lawcouncil.au.