

Notification Guidance

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About Miller

We are a leading independent specialist (re)insurance broking firm with more than 750+ people across our UK and international operations.

Our reputation as the strongest advocates in the business comes from our exceptional people delivering exceptional results for over 120 years.

With a client-first approach, we value our long-standing relationships and continue to build strong and rewarding partnerships.



Miller is a Chartered Insurance Broker, the industry's gold standard for insurance brokers. We have committed to delivering professional excellence and adhering to a Code of Ethics.

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As you will know, Solicitors' Professional Indemnity Insurance is mandatory for all practicing law firms as a requirement of the profession's regulatory body, the Solicitors Regulation Authority (SRA).

The terms of the insurance must meet the SRA's Minimum Terms & Conditions of Professional Indemnity Insurance (MTCs) and, insofar as they fail to do so, the MTCs will prevail.

Scope of Cover

The MTCs provide civil liability cover for SRA authorised firms as follows:

"1. Scope of cover

1.1 Civil liability

Subject to the limits in clause 2, the insurance must indemnify each insured against civil liability to the extent that it arises from private legal practice in connection with the insured firm's practice, (including its prior practice and (unless run-off cover is provided in accordance with clause 5.3) any 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."

"Claims"

The MTCs define a 'claim' as:

- "a demand for, or an assertion of a right to, civil compensation or civil damages
- an intimation of an intention to seek such compensation and damages.
- an obligation on an insured firm...to remedy a breach of the SRA Accounts Rules...except where any such obligation may arise as a result of the insolvency of a bank or building society which holds client money...or the failure of such bank... to repay monies on demand."

So 'claims' are, for the most part, situations where a third party has made a demand for compensation or damages. They are generally relatively easy to spot.

Because of the wording set out above, it is important that any 'claim' that you might receive is notified to your insurers as a matter of priority as soon as possible after you receive it. This applies even where you feel the claim lacks merit or is being brought for nefarious reasons; or where its value might fall within your insurance policy excess, or you might feel that you can deal with it quickly and easily yourself.

The simple rule is: where there's a claim, notify without delay.



“Circumstances”

Claims are usually easy to spot. Less so with ‘circumstances’. The MTCs describe a ‘circumstance’ as:

“an incident, occurrence, fact, matter, act or omission which may give rise to a claim in respect of a civil liability”.

This is often less than straightforward. What constitutes a circumstance for one person may not for another. We would simply say that you should err on the side of caution and speak to us if you are in any way concerned that a ‘circumstance’ may have arisen; we can then advise you as to whether a notification should be made.

But, once again, just because you feel the matter may be lacking in merit, doesn’t mean that you can ignore it. Let us know and we will make that decision together. Typically we would say that it costs nothing to make a precautionary notification, and it is frequently viewed by your insurers as the sign of a well-run firm that regular precautionary notifications are made, regardless of whether or not they ultimately turn into claims.

When to Notify

Your insurance is written on a ‘claims made’ basis, meaning that it is the policy that is in force when you make your notification that will ultimately respond to the claim, not the policy that was active when the allegedly wrongful act was committed.

The MTCs do not mandate how or when a notification should be made. Each policy will have its own provisions. But the key thing here is to let us – as your brokers – know about the matter as soon as possible and without delay. We can then ensure that a notification is made on your behalf to the correct insurer in the correct way.

As mentioned above, it is the existence of a claim or circumstance which is important and not whether the claim or potential claim has any merit.

Late notification should be avoided wherever possible. Although it is hard for an insurer to refuse to indemnify you in relation to a claim that is notified late, if the delay in notifying the matter has made the situation worse, your insurer may well insist that you pay the difference between what the matter would have cost to deal with had it been brought to their attention at the right time and the amount that it has, in fact, cost to deal with. This could potentially be a significant amount of money. So please don’t delay.

Block Notification

On occasions you may encounter an issue that affects several clients or matters, rather than just one. This might happen where you have carried out similar work on a number of occasions (e.g. the ATE insurer refusing to pay out on several personal injury cases being run by your firm) or where a number of separate clients might have been affected by one all-encompassing event (e.g. theft from your client account).

In that eventuality, you may need to make what is called a ‘block notification’. This is essentially a notification of a broad problem, and it is something that requires a lot of care and attention before it is made as the implications for you could be very significant. For example, it might influence how many excesses you might need to pay or, ultimately, how much insurance cover is likely to be available. As an insurance broker, we are best placed to advise you on whether, how and when to make such a notification, to ensure that you are best protected. If you find yourself encountering a broad problem that may impact several clients or matters, let us know as soon as possible and we can advise you further.

Summary

- If you receive a direct complaint or demand for compensation or damages, let us know immediately and we will make a notification for you.
- If you become aware of something that you feel has the potential to turn into a claim at some point, again let us know and we can decide between us whether a precautionary notification should be made.
- Please err on the side of caution when considering what to do with a claim or a circumstance; even if the matter is baseless/low value/malicious, let us know anyway and we can make a judgement call between us as to what to do. Ignoring the matter is only likely to prejudice you further down the line when your insurers hold you responsible for the consequences of delaying a notification.
- Notification becomes even more important when dealing with ‘broad’ problems affecting more than one client or matter. In that situation, it is even more vital than ever that you let us know immediately, in order that we can use our own expertise to ensure that your – and your clients’ – best interests are protected.