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Wondering when to notify that claim?

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Insurance

The *Professional Indemnity Insurance Scheme 2015* requires practitioners to provide Law Claims with written notice of any claim made against them during the policy period.

What is a claim?

A claim under the policy is defined as:

- a demand for, or an assertion of a right to civil compensation or civil damages; or
- an intimation of an intention to seek civil compensation or civil damages.

Early Notification

Early notification of a claim or potential claim allows Law Claims to investigate properly and/or defend the claim.

We encourage practitioners to notify Law Claims as soon as they become aware of any potential claim even if a formal claim has not been made against the practitioner. This allows for early intervention which provides a better opportunity to gather evidence and assist the practitioner in avoiding a claim being made at all or mitigating a claim.

A practitioner's failure to notify can lead to missed limitation periods, adverse judgments, lost opportunities and/or negative outcomes. The opportunity to act early and intervene cannot be underestimated.

From our experience, delaying notification is rarely intended but arises from:

- embarrassment of the practitioner and/or firm;
- a misconceived view that the problem will eventually resolve itself;
- concern about premiums, deductibles and excess insurance coverage.

Not sure?

If you are uncertain about whether to notify, please call Law Claims to discuss the matter.

It is not suggested that everyday problems should be notified but sometimes there are circumstances that may give rise to a claim being made.

Law Claims' solicitors may be able to provide advice based on our experience in similar matters and, assist in preventing a professional negligence claim eventuating.

How to Report

In order for us to properly investigate and evaluate your claim practitioners must complete the 'Notice to Insurers' and 'Instructions to Solicitors for Law Claims' forms. Law Claims will send these forms upon receipt of a notification (as well as an 'Authority of Partner/Director' form if you are not a sole practitioner). These forms can also be downloaded from the Law Society of SA's website (www.lawsocietysa.asn.au).

In addition to completing the above forms, we make the following suggestions regarding the reporting of a claim:

- **Provide details**
Do not just send us a copy of proceedings you may have been served with. Provide us with your version of events so that we can assist in your defence.
- **A detailed summary**
Please provide us with a detailed summary that includes key facts, details and dates.
- **Quantum**
If you are in a position to estimate the cost of the claim or potential claim that will assist greatly particularly in setting reserves.
- **Do not send the whole file**
Please wait until you have discussed the matter with a Law Claims solicitor. It may be the case that your file will need to be sent directly to a Panel Solicitor or counsel who may be instructed to handle your matter.
- **Co-operation**
We require your co-operation to investigate and assess any claims exposure and determine appropriate strategies for the defence of a matter. You will need to be available for further questions. Occasionally we have practitioners reporting a matter before they leave on holiday and then we are unable to contact them.

It is important therefore to provide timely advice of a claim or potential claim so that we are able to assist you, minimise any loss or damage that might arise and take appropriate action.