

Loss prevention standards - Financial Lines & Cyber

Solicitors PI: Analysing Claims Trends

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A guide to the effective analysis of claims
trends within a legal business



Solicitors PI: Analysing Claims Trends



Introduction

Analysing and responding to claims trends is a crucial aspect of risk management in any legal business. Aside from providing useful internal insights to businesses, Aviva client risk management data clearly shows a strong correlation between businesses that are able to monitor claims trends effectively and:

- Lower frequencies of claims notifications
- Lower claims values
- Lower spend on defence costs



The form and extent of required monitoring will vary depending on the size, specialism and claims profile of the law firm. This document is intended to provide guidance on the Aviva Standard in respect of claims monitoring, and to provide examples of excellence.

What incidents should Legal Businesses be monitoring?

Most legal businesses have a system that monitors claims and circumstances that are notifiable under a Professional Indemnity policy. However, the strongest structures go further than that, and are able to take advantage of information gathered from a broader range of sources, that include:

- Claims and circumstances that are notifiable under your PI policy
- Client complaints to the firm
- Complaints to the Legal Ombudsman
- Complaints to the SRA
- “Near misses” – in other words, errors that could have resulted in a loss, but which were caught before they became an issue.

It is clear that there will always be a proportion of claims and complaints that are unmeritorious, brought for tactical reasons, or which arise from truly unique circumstances that are unlikely to be repeated in future. However, recording and analysing all of the above will ensure confidence and a strong evidence base for those conclusions.

What information should Legal Businesses be collecting?

This is likely to depend on the size of the business and practice areas, but as a minimum, we expect to see the following information being collected:

- Type of incident (i.e. whether it is a claim, complaint, or near miss).
- Department or practice area.
- Likely value of the claim or complaint.
- Cause(s) of the claim or complaint.
- Robust root cause analysis, which goes beyond a surface level assessment, and evidences a genuine curiosity as to why a claim or complaint has arisen. A strong example of this is the “Five why’s” approach which seeks to drill down further into the root cause of the claim. Further detail of this process can be provided by your Aviva Risk Manager on request.
- Outcome of the claim or complaint.
- Observations as to whether further preventative steps should be taken (such as training, amending of precedents or file audits) and the timescales for such action.

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How should Legal Businesses be analysing it?

There are a number of ways of analysing the information collated, and your firm's approach will be dictated by the number and frequency of incidents to which it is exposed.

Examples of excellence that we have observed include:

1. Organisation format – Some firms place reliance of specific risk management software approved by the Law Society and others retain a manual record.
2. Identifications of key metrics, such as practice areas with the highest number or highest value of claims; types of error that lead to complaints; consideration of which causes or departments cost the most to resolve (both within and outside PII excess); or which require the most management time.
3. New trends – Are there seasonal, economic, or behavioural changes that are leading to a flux in claims or complaints in particular practice areas? Are claims more likely to be caused by errors in a particular month, time of the month (such as month end towards billing), at a particular point in a transaction, or on days when working remotely?
4. Correlations with information from other internal sources – Consideration of whether your data reveals any unexpected correlations - for example, based on your own data, **does a fee earner's chargeable hours** or absence from work correlate with a higher likelihood of a complaint? Do your supervision or file audit records provide any further information on why an error might have occurred? Were there any warning markers that could have been identified earlier, such as working over weekends or late into the evening?
5. Ensuring analyses are carried out regularly throughout the year – ideally, these should be monthly or quarterly in order to demonstrate robust prevention strategies.

What should happen once the analysis has taken place?

1. Consider which preventative measures could have avoided the incident – The precise measures will be dependent on your own data and claims profile, but actions might include:
 - Firm wide or targeted department/fee earner grade training on internal processes.
 - Increased supervision or auditing of particular departments.
 - Targeted file reviews (where you have identified an issue with a legal point, internal precedent, or a fee earner).
 - Buddy systems or time at team meetings to discuss complex matters.
 - Providing practical reminders at key times, such as busy calendar periods, at a particular point in a matter cycle or during times of high work volume.
 - **Increased training on “soft skills”, such as communication, managing client expectations or supervision.**
2. Share your findings with the board, supervisors, and risk management teams and, where appropriate, your fee earners directly.
3. Consider the potential impact of external trends – This could help explain changes in your own information or help you to put preventative measures in place before claims or complaints are made.

4. Check how your information compares – Check within your own professional networks as to whether your information is following general market trends, or whether there are areas you need to investigate further. Clients of Aviva are able to access risk management and claims insights tailored to their firm and practice area or across the market as a whole on request.
5. Share your process and successes with your PI Insurers– Not all proposal forms provide a dedicated space for explaining the claims monitoring processes, but we consider it crucial to understanding a **client's** risk profile. We strongly encourage firms to include within their PI submission details of how claims and complaints are recorded and analysed, with specific examples of root cause analysis and other preventative measures put into place to prevent a reoccurrence.
6. Invest – A client who can demonstrate a long-term, continued and enhanced financial investment in Risk Management and claims trends **identification will commonly 'stand out' to insurers. This could be** accreditation based, additional Risk Management headcount, investment in systems, governance, and processes. Management time on embedding a change in behaviours can often be difficult to quantify but can yield exceptional results when followed through.

Specialist Partner Solutions

Aviva Risk Management Solutions can offer access to a wide range of risk management products and services at preferential rates via our network of Specialist Partners.

For more information please visit:

[Aviva Risk Management Solutions – Specialist Partners](#)

Sources and Useful Links

- [Preventing complaints | Legal Ombudsman](#)

Additional Information

To find out more, please visit [Aviva Risk Management Solutions](#) or speak to one of our advisors.

Email us at riskadvice@aviva.com or call 0345 366 6666.*

*The cost of calls to 03 prefixed numbers are charged at national call rates (charges may vary dependent on your network provider) and are usually included in inclusive minute plans from landlines and mobiles. For our joint protection telephone calls may be recorded and/or monitored.

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