

Insurance policy services

Capsticks has extensive experience in insurance law and we act for most of the market leading underwriters. Insurers often ask us to consider, in the first instance, policy coverage and the contractual rights and indemnity arrangements of the parties involved when a claim is made. The importance of identifying these issues at an early stage cannot be underestimated.

We have also advised on draft policy wordings and on how they are likely to be interpreted in the event of any claim.

POLICY WORDING REVIEW

The knowledge we have of insurance claims enables us to advise Underwriters on the drafting of professional indemnity policy wordings, proposal forms and endorsements. We understand the importance of wordings being sufficiently clear in order to avoid uncertainty in any future coverage decision or dispute.

Examples of instructions we have received are:

- advising on new professional indemnity products before the inception of the risk;
- considering existing policies following indemnity scheme changes by membership organisations;
- advising employment agency Insureds on the type and scope of their professional indemnity insurance and their liability exposure arising from the actions of agency workers on third party placements;
- advising providers from other jurisdictions on their indemnity requirements in the UK.

POLICY COVERAGE ADVICE

We regularly advise Insurers on policy coverage once a claim is made. Such advice can focus on one particular issue (e.g. claims control) or it can encompass more in-depth investigations of indemnity arrangements of various parties or involve scrutinising Underwriters' intentions when writing a risk and the information provided to them by the insured.

We have a good understanding of the decisions taken by the Courts on discreet points of construction, for example in relation to notification obligations.

Examples of instructions we have received are:

- advising on coverage for claims, inquests, criminal and non-

criminal investigations and regulatory matters and the application of relevant conditions, exclusions and endorsements;

- advising on coverage for claims arising from clinical trials;
- advising on reinsurers' rights in circumstances of late notification and/or material non-disclosure.

POLICY DISPUTES

The above experience makes us well placed to advise on disputes arising out of challenges to policy coverage decisions, which often involve high value claims. We have good relationships with specialist policy Counsel and we are able to give an early steer as to how the Courts are likely to interpret the policy terms and conditions.

Examples of instructions we have received are:

- a dispute in relation to when an indemnity arises under a contingent policy;
- a dispute arising from notification where a loss has not yet arisen;
- a dispute arising from a delayed notification to reinsurers;
- general challenges by insureds to insurers' policy coverage decisions.

OUR SPECIALISTS

Majid Hassan, Ed Mellor and Sarah Bryant are our principal senior insurance specialist lawyers. They are assisted by others across a range of qualifications to ensure work is passed to the appropriate level.

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