The Best of Both Worlds: The Law Society of New South Wales Professional Standards Scheme and Top Up Insurance

Risk management topics:

General Practice | Practice Management

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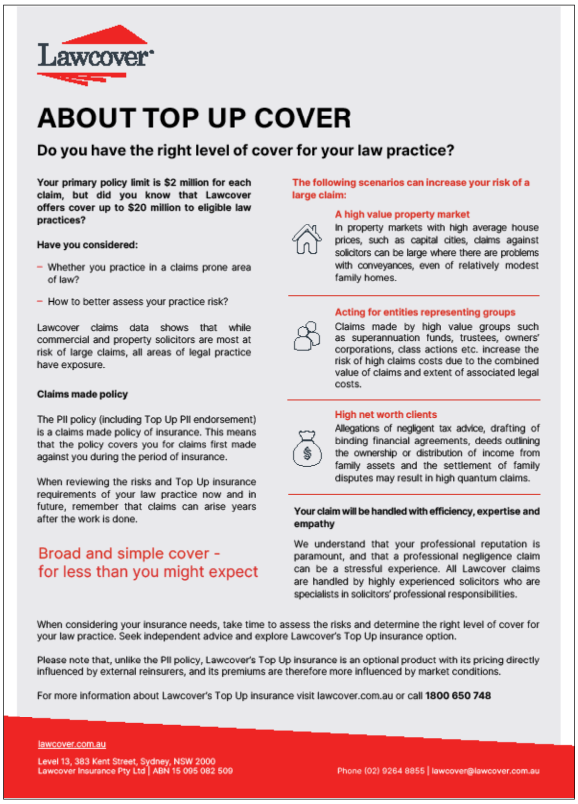
Most solicitors are familiar with the Law Society of New South Wales Professional Standards Scheme (Scheme) and the role it plays in limiting liability. The Scheme is an excellent initiative of the Law Society, to ensure quality standards and excellence in the provision of legal services, while capping liability faced by solicitors. However, the Scheme does not provide complete protection against **all** liabilities. This is where Top Up insurance protection comes into play.

Top Up insurance above Lawcover's primary professional indemnity insurance limit of $2m helps with protecting solicitors from financial exposures that fall outside, or exceed, the Scheme's capped liability framework.

Click here for more information on Lawcover's Top Up Insurance >



Lawcover

ABOUT TOP UP COVER

Do you have the right level of cover for your law practice?

Your primary policy limit is $2 million for each claim, but did you know that Lawcover offers cover up to $20 million to eligible law practices?

Have you considered:

- Whether you practice in a claims prone area of law?
- How to better assess your practice risk?

Lawcover claims data shows that while commercial and property solicitors are most at risk of large claims, all areas of legal practice have exposure.

Claims made policy

The PII policy (including Top Up PII endorsement) is a claims made policy of insurance. This means that the policy covers you for claims first made against you during the period of insurance.

When reviewing the risks and Top Up insurance requirements of your law practice now and in future, remember that claims can arise years after the work is done.

Broad and simple cover - for less than you might expect

The following scenarios can increase your risk of a large claim:

A high value property market
In property markets with high average house prices, such as capital cities, claims against solicitors can be large where there are problems with conveyances, even of relatively modest family homes.

Acting for entities representing groups
Claims made by high value groups such as superannuation funds, trustees, owners' corporations, class actions etc. increase the risk of high claims costs due to the combined value of claims and extent of associated legal costs.

High net worth clients
Allegations of negligent tax advice, drafting of binding financial agreements, deeds outlining the ownership or distribution of income from family assets and the settlement of family disputes may result in high quantum claims.

Your claim will be handled with efficiency, expertise and empathy

We understand that your professional reputation is paramount, and that a professional negligence claim can be a stressful experience. All Lawcover claims are handled by highly experienced solicitors who are specialists in solicitors' professional responsibilities.

When considering your insurance needs, take time to assess the risks and determine the right level of cover for your law practice. Seek independent advice and explore Lawcover's Top Up insurance option.

Please note that, unlike the PII policy, Lawcover's Top Up insurance is an optional product with its pricing directly influenced by external reinsurers, and its premiums are therefore more influenced by market conditions.

For more information about Lawcover's Top Up insurance visit lawcover.com.au or call **1800 650 748**

lawcover.com.au

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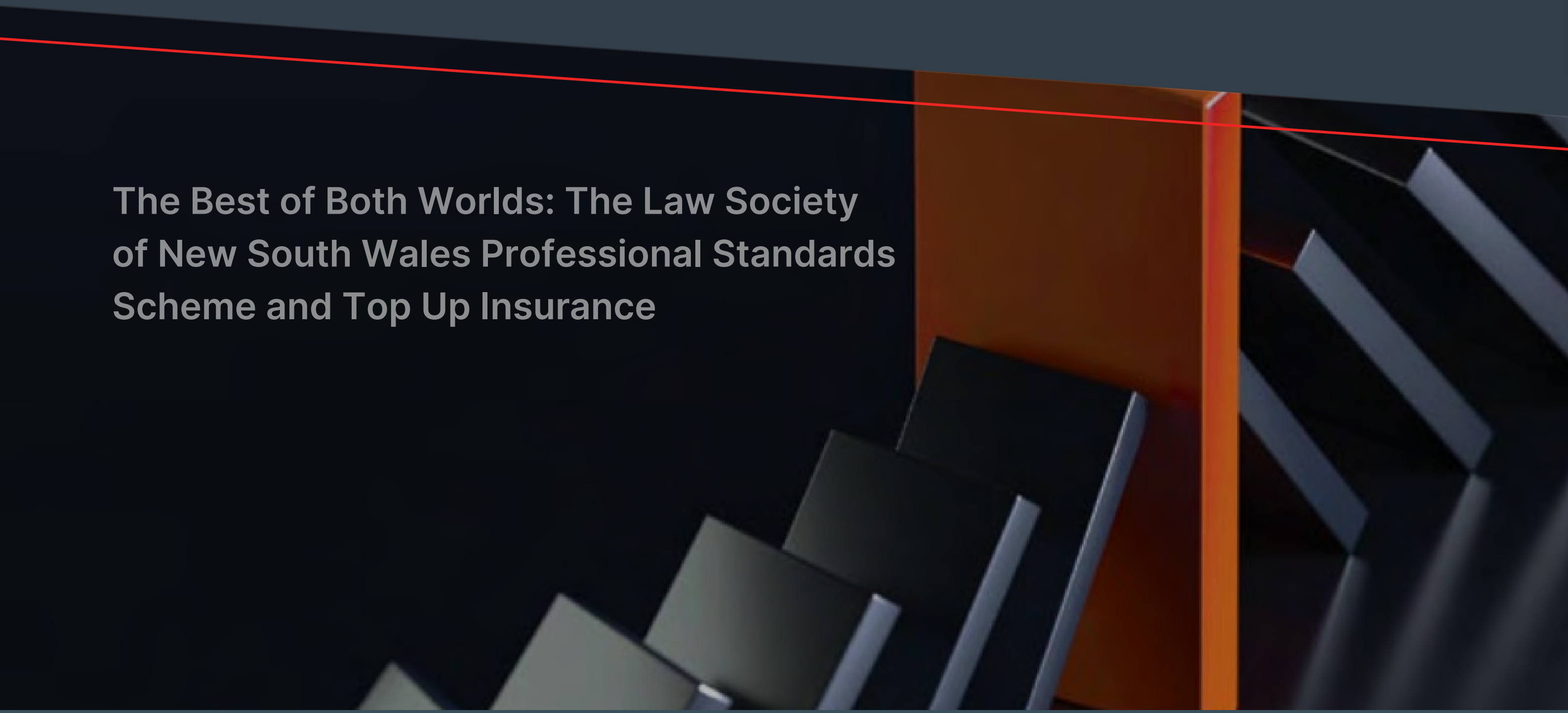

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The Scheme

It's easy to assume that liability is broadly contained once the Scheme is in place for your practice and capped at $1.5m (or such higher cap as may apply).

The Scheme

There are some situations where the Scheme doesn't apply, or where protection is narrower than might be anticipated.

The Scheme does not apply to claims arising from:

- Personal injury or death
- Breach of trust
- Dishonesty
- Real Property Act breaches (parts 13 and 14)

Click here for more information on the Scheme >

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While claims for personal injury or death are excluded, the Scheme does apply to the provision of legal services in connection with personal injury matters.

Some examples:

Breach of trust

A cyber breach in your practice resulting in client funds being transferred out of your trust account, represents a breach of trust. Breaches of trust sit outside of the Scheme.

This is likely covered under your Lawcover primary **$2m** policy and Top Up cover.

Defence costs

Defence costs sit outside of the Scheme. These are covered under the Lawcover primary $2m policy and by Top Up cover. In complex, large or high value claims, these costs can be significant.

If defence costs **exceed $500,000**, Top Up cover ensures there is sufficient cover to meet both defence costs and the liability capped by the Scheme.

Timing of the allegations

The applicable Scheme is the one in force at the time the relevant acts or omissions occurred. If the law practice did not have the benefit of the Scheme at that time, for example because the law practice did not meet the eligibility criteria, the Scheme will not apply. Some claims against a law practice, however, can be made long after the work has been done.

In this scenario, while the Scheme is not available, the claim may still be covered under your Lawcover primary **$2m** policy and Top Up cover.

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How does Top Up cover work?

Top Up cover sits above the Lawcover primary $2m policy to an amount selected by you as appropriate for your practice.

In practical terms, it can assist where:

- The Scheme does not apply
- The Lawcover primary $2m limit is eroded by defence costs
- Liability is not limited to $1.5m
- A claim relates to earlier work outside Scheme participation

The best of both worlds:

- Combining the Scheme and Top Up cover provides the best protection in the event of a large claim faced by your practice. The Scheme may limit liability, but only in defined circumstances
- Lawcover's primary $2m policy provides cover for claims and defence costs, but only up to that limit
- Top Up adds protection beyond the $2m limit, including where the Scheme may not respond.