

The PI Communiqué

MFL McParland Finn Ltd
INSURANCE BROKERS

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The Newsletter of McParland Finn Ltd

Editorial By Kevin McParland

I am pleased to introduce the inaugural issue of our periodical 'The PI Communiqué'. Our intention is to publish four times per year, and perhaps more often when we feel there are key issues facing the various professional sectors in which our existing and prospective clients operate.

By utilising this platform, we aim to keep you apprised of issues relating to insurance and risk management as well as keeping you informed about developments within our own business.

The last couple of years have seen a number of changes within our own organisation; the assembling of a very experienced management team, the opening of our office in Leeds, and last but by no means least, our successful navigation of the FSA Authorisation process.

MFL is exceptionally well resourced to enable the Company to offer efficient and innovative solutions to clients large and small. One of the benefits of being an owner-managed business is that we fully understand that sector, and are prepared to look at issues on a much longer term basis.

Our solutions to insurance problems can either be totally bespoke, or allow clients to benefit from the array of delegated packages we can offer, which provide wide, high quality cover, claims and risk management backed by in most instances free legal advice, which extends to contract and collateral warranty vetting.

Having experienced soft market conditions, I must urge tremendous caution by all professionals. The current cycle is expected to last well into 2007, and possibly beyond. One has to believe that the providers of capital to the Professional Indemnity sector know their onions!! But do they?

Rates are already falling at suicidal pace for some sectors, well below analyst predictions, and I believe well below what is contained in many budgets and business plans within the market place.

I am not suggesting that markets will go out of business, but I do feel, to quote an old but pertinent adage, that insurers very quickly begin to 'underwrite via their own claims departments', i.e.. will take an extremely tough stance on claims.

In these conditions it is vitally important that you turn to brokers like MFL who have tremendous experience in the area of Professional Liabilities,



Kevin McParland
Managing Director
McParland Finn Ltd

and that you listen to and take their advice. Already in this cycle MFL has been brought in by companies who have been wrongly advised and where insurers are seeking to avoid providing indemnity on the slightest pretext.

You need to be sure your Professional Indemnity Policy will respond; it is your reputation which is at stake and perhaps your entire livelihood.

I hope you enjoy this inaugural edition of 'The PI Communiqué' and would welcome any feedback.

New MFL Website And Brand Launched

MFL is pleased to announce the launch of its new website and brand image.

Martin Jackson of MFL oversaw the changes. "Our business and the internet have changed significantly since our original website was developed and as a business operating within the service sector the website has become our 'shop window' - that first impression is vital.

The changes that we have made

have positioned the business for its next stage of growth and development."

MFL was assisted in the design and development of the new website and branding design by Sheffield based Greymatter.

The new branding strengthens our reputation for providing a high level of professionalism and promotes a new modern image right for the 21st century.

The website now has dedicated areas for the different divisions of our business. The simple navigation of the website allows you to download specific sector information as well as relevant insurance documents including proposal forms.

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Insurance for your reputation

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Will Home Information Packs

Pack A Punch?

Home Information Packs are set to revolutionise buying and selling in the domestic housing market from 2007, but what impact if any will this have on a Surveyor's Professional Indemnity risk and cover?

The Background

After 2007 an Estate Agent marketing a property without a Buyer's Pack will be investigated by their local trading standards officers, who will be able to pursue legal actions similar to those available under The Property Misdescriptions Act.

There is currently only guidance on the types of documents that need to be included in the pack which unless clarified will inevitably lead to grey areas.

Another area of current concern relates to where culpability for any inaccuracies in the packs will lie. The Agent will normally be responsible for collating the Home Information Pack, but others, such as solicitors,

will prepare the searches and check the title documentation. This leads to some unanswered questions under the current law as to whether a prospective or eventual purchaser can make a claim against the Agent, or indeed the surveyor who undertakes the Home



Condition Report, should they subsequently feel the contents of the HIP or HCR are erroneous or misleading.

With 1.2m inspections being anticipated every year it is clear that despite the creation of a new role of 'certified' inspectors there will be heavy reliance on members of the Royal Institution of Chartered Surveyors, at least in the initial stages, creating new

roles and exposures for many Surveying Practices.

The Impact

So who will insure these certified inspectors? In the first instance the creation of a captive mutual fund to provide mandatory cover for all was envisaged, however this was against the background of a hard insurance market. Conditions have softened since that original formulation and it now seems likely that those gaining certification will simply be asked to ensure that their existing cover extends to include inspector work – against a yet to be specified set of minimum terms.

Clearly, there is still a great deal to be finalised in relation to Home Buyer's Packs and this will hopefully bring some clarity on the issues outlined above. In the meantime this does highlight the need to ensure that you employ the services of a specialist insurance broker who can ensure you are kept abreast of the latest changes in the profession and the impact this has on your Professional Indemnity cover.

“...The Agent will normally be responsible for collating the Home Information Pack, but others, such as solicitors, will prepare the searches and check the title documentation.”

Fake CV Costs Company Dear

A woman who bluffed her way into a senior position stole from her employers. A crime policy would have protected them.

A woman has been recently jailed for 2 years following her conviction for having stolen £115,000 from her employers to fund a lavish lifestyle. Susan Simms duped her employers into giving her a senior management position by faking her CV in which she claimed to have accountancy and book-keeping qualifications.

Simms had been employed to look at reducing costs at the firm but her siphoning of funds to purchase amongst other

things 3 cars nearly brought the business to its knees.

“Some policies will cover the loss irrespective of when the crime was committed and whether the business is able to identify which employee perpetrated the theft.”

A Crime Insurance Policy is designed to cover losses such as these.

Some policies will cover the loss irrespective of when the crime was committed and whether the business is able to identify which employee perpetrated the theft.

Theft of this sort is on the increase and no matter how robust a firm's systems it is still at risk from such crimes.

The MFL Difference

At MFL Professional we have extensive experience of assisting surveying practices with their insurance and risk management needs.

We have been providing our services to surveyors for in excess of 10 years . As a specialist broker we can go further to help Surveyors' practices get the best deal available.

....robust systems may not be enough to prevent theft by employees.





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Endowments - When Is Too Late?

The mis-selling of endowment mortgages has led to some confusion as to when an endowment complaint can result in a successful claim against a business. Robin Simon LLP Solicitors provides help through the minefield.

Shortfall victims who believe that they were misled into an endowment must firstly protest either to the insurer or the firm that sold them the endowment. Only when they have refused help—known as ‘deadlock’ - can they appeal to the Financial Ombudsman Service (‘FOS’), subject to the following conditions:

Endowment Policies Sold Prior To 29 April 1988

Only complaints relating to endowment policies sold following 29 April 1988, the date when the Financial Services Act 1986 came into force, can be dealt with by the FOS.

Complaints where advice was given before 29 April 1988 have to be dealt with according to general legal principles. However, in practice, there is no longer any recourse for such complaints through the Courts as the law imposes a limit of 15 years (from the date when the potential complainant was allegedly mis-sold their endowment policy) within which to bring a claim (unless it relates to fraud or deliberate concealment).

Endowment Policies Sold On or After 29 April 1988

In cases where the FOS has jurisdiction, as a general rule, policyholders have 3 years to complain following receipt of their first letter from their endowment provider (known as a ‘red letter’), notifying them that their policy is running a ‘high risk’ that it will not pay out the target

amount at the end of the term. Even after that date, the FOS still has discretion to consider the complaint.

Since 1 June 2004, all endowment providers or sellers are required to explicitly warn policyholders who are running such a risk, at least 6 months in advance of the date from when they would be time-barred from making a complaint to the FOS, if they intend to rely on a time-bar defence.

Complaint Handling Concerns

Consumers, the FOS and the FSA have expressed their concern with the way endowment providers and sellers have been dealing with the ever-increasing number of endowment related complaints. Their concerns arise from the large number of complaints referred to and upheld by the FOS, the majority of which should properly have been dealt with by the endowment providers or sellers at the outset. The FSA have recently sought to rectify these concerns by issuing detailed guidance to product providers and sellers in relation to their handling of mortgage endowment complaints.

“...Accordingly, premiums have increased and look set to continue to do so into the foreseeable future...”

Implications For Insurers

In addition to the FSA’s disciplinary campaign and the significant administrative burden that has been placed upon Insurers as a result of dealing with the mis-selling fallout, the implications for Insurers are far reaching. Although unlikely, a policyholder might not receive a red letter until shortly before the policy matures. The policyholder would then have at least 3 years from the date that they receive the red letter within which to bring a complaint, and possibly

“....many endowments sellers being subject to numerous mis-selling claims which, if aggregated, result in Insurers having to make significant contributions to compensation payouts....”

longer where the policyholder has not been given at least 6 months notice of impending time-bar deadline or the FOS decides to use its discretion to consider the matter ‘out of time’. This means that Insurers are often uncertain as to when they may close off files and adjust their reserves accordingly.

The position is further complicated by the dilemma many Insurers and Insureds face as to whether to notify policyholders of an impending FOS complaint deadline. The concern is that if they do, they may encourage policyholders to pursue complaints they may otherwise not be intending to. On the flip-side, if no such notification is sent, Insurers and Insureds will be unable to rely upon the time-bar defence where complaints are received which, but for their failure to send out the relevant notification, would be out of time.

Further, the FSA has rejected the premise that Professional Indemnity premiums will increase, on the basis that compensation payouts are, on average, approximately £5,500, and therefore, below typical deductible levels. However, this has not been borne out in practice with many endowments sellers being subject to numerous mis-selling claims which, if aggregated, result in Insurers having to make significant contributions to compensation payouts. Accordingly, premiums have increased and look set to continue to do so into the foreseeable future.

Robin Simon LLP are specialist PI lawyers



Insurance
For
Your
Reputation

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McParland Finn Ltd is authorised and regulated by the Financial Services Authority

Low Cost Quality Office Insurance



MFL operates a low cost office insurance scheme with premiums starting from £275.00 plus Insurance Premium Tax.

The standard package includes cover for Property, Business Interruption, Commercial Legal Expenses, Money, Employer's Liability and Public and Products Liability.

Have You Considered?....

Commercial Legal Expenses - With the ever increasing amount of business legislation and an increasingly litigious society, a legal dispute can soon arise with a substantial cost to your business.

Legal fees, compensation awards, unexpected tax disputes can affect the financial stability of the company. The commercial legal expenses insurance policy allows you to pursue or defend your legal rights in a number of business situations such as:-

- Employment disputes
- Tax enquiries
- Property protection
- Disputes with suppliers

A quality commercial legal expenses policy is essential if your company is to protect itself against potential legal costs it may face.

For further information please contact one of the team.

Register to receive PI Communiqué and additional Technical Bulletins from MFL by email:

www.m-f-l.co.uk/newsletter

Contact MFL:

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"Be Quick I'm Busy!"

MFL is pleased to be associated with Sanderson Weatherall a leading independent practice of Chartered Surveyors and Property Consultants with offices in Leeds, London, Manchester, Newcastle upon Tyne and Teesside with around 250 staff including 150 surveyors and valuers.

Peter Dunlop, Managing Director of Sanderson Weatherall has kindly agreed to take part in our Q & A.

What 3 qualities do you need in your job?

Integrity, tenacity and always thinking ahead of the competition.

What is the best piece of business advice you have ever been given?

"Go on being yourself". Said to me after a course led by Greville Janner. He presented me with a book "The essential guide to the theory, tricks and techniques of business presentation". I never did read it.

If you could change one thing in your profession what would it be?

Strive to see chartered surveyors recognised as highly as some of our colleagues from other professions. Too often the corporate sector underestimate property and have no strategy. How often do you see its property consultants listed amongst a business's professional advisers?

Surveying firm Sanderson Weatherall is celebrating a prestigious award win at the inaugural Estates Gazette Awards 2005. With highly successful offices in Leeds, Newcastle, Manchester, Teesside and London, the national firm came away with the esteemed accolade of Property Advisor of the Year for the North East and Yorkshire, beating off stiff competition from rival agents, GVA Grimley and King Sturge.

The award win is the latest of a string of successes for the national firm. The last 12 months has seen the company go from strength to strength, surpassing its 2004 targets and retaining its place in the UK's Top 25 surveying firms.

Which person living or dead gives you real inspiration?

Over the years, several. In recent years Ronald Reagan. He was not noted in the press for his high intellect. He showed by his achievements over communism how enormous change can be achieved.

Complete the following sentence. I'm really embarrassed about this but I once....

.....I'm really embarrassed about this, but once I find none of my colleagues have read this, I'll be frustrated.!

Sanderson Weatherall

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