

LC Paper No. CB(2)2185/03-04(01)

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24 March 2004

BY FAX (2869 0252) AND BY POST

Mr. Yuen Ming Fai, Richard, JP
Commissioner of Insurance
Office of the Commissioner of Insurance
21st Floor, Queensway Government Offices,
66 Queensway, Hong Kong

Dear Commissioner,

I wish to thank you and Mr. Ross Lam, the Assistant Commissioner of Insurance for attending my tea gathering for practitioners last Friday to discuss the relevance of the proposed Policyholders' Protection Fund ("PPF") to the legal profession, in particular to solicitors who practice in partnerships. You may be aware that rules are being processed for them to practice in solicitor corporations.

Professional indemnity is a highly sensitive issue among solicitors because of the collapse of the Australian HHH group with whom the Professional Indemnity Fund was insured. The Law Society Council took the view that, under the existing legislation, the shortfall caused by the collapse has to be made up by the membership. Although measures are being pursued to improve risk management in solicitors' practices, which hopefully will have an effect on reducing claims, there is no guarantee against the collapse of the insurer. The Law Society is discussing among its membership how the provision of professional indemnity may be tackled so as to strike the right balance between the proper public interest and viability for the profession. It is in this context that the PPF proposal is especially relevant.

As reflected in the discussion at the gathering, in order for the PPF to be meaningful to solicitors in the context of professional indemnity, the following points are important :-

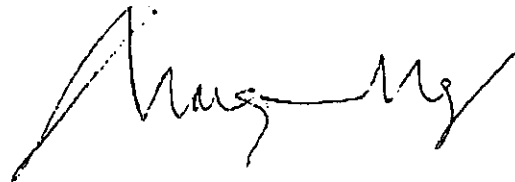
1. A PPF specific to the profession will be too small to work, and the scheme contemplated by the Commission is that there should be a general PPF under which the legal profession is also covered.
2. PPFs usually compensate members of the public, i.e. the claimants, and seldom companies or corporations. The question of how it may function with respect to solicitors' firms has to be clarified.
3. As presented in the consultation document, PPF applies to the collapse of an insurance company within Hong Kong. In the case of the

solicitors indemnity fund, the problem was created by the collapse of the HIH Group in Australia. Given the globalization of insurance, if PPF is to be established, this aspect has to be considered.

4. The PPF would a desirable supplement to a healthy scheme of professional insurance but cannot cure an unhealthy scheme. Should a viable PPF be set up, in the view of those present at the gathering, an appropriate master policy or qualifying insurer scheme together with the PPF should adequately meet the proper public interest.
5. The consultation document states that the cost of the PPF may be borne either by the insurer or the policyholder. Solicitors already carry a heavy burden under the legal requirements. Any significant increase due to PPF will be unlikely to have members' support.

I trust the above views are of assistance to the Commission.

Yours sincerely,



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