LEGAL PRACTITIONERS' LIABILITY COMMITTEE

2022–23 INSURANCE RENEWAL INFORMATION

for law practices with gross fee income up to $25m

Please read carefully before completing your insurance renewal

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FOR INSURANCE RENEWAL ENQUIRIES CONTACT
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1. Cover

LPLC provides cover of $2m per loss (inclusive of defence costs), with unlimited reinstatements and free run-off cover for former practitioners.

For information about top-up insurance beyond LPLC's cover, see section 14 below.

2. Basis of premium assessment

Gross fee income assessment

LPLC uses law practice gross fee income (GFI) as the primary rating factor in assessing premiums.

GFI rating is a widely used proxy for risk within the insurance industry and premiums based on GFI assessment fairly allocate the premium pool across the profession.

GFI refers to fees rendered by the law practice. It does not include disbursements or GST.

GFI declarations made by law firms may be subjected to a verification process as part of LPLC's monitoring of the accuracy and integrity of declarations.

Increase in premium rates for 2022–23

Premium rates have increased by 5% this year. While LPLC has kept premium increases to wage inflation for several consecutive years, the average claim size across the pool has increased well above its long-term trend in the last three years, necessitating this premium increase.

Change in your firm's actual premium to last year will also be attributable to movement in your firm's GFI from the prior financial year.

LPLC continues to provide a significant premium subsidy to the pool from the Fund's investment earnings and capital reserves.

Second year of transition from headcount premium assessment to GFI assessment

For law practices in the second year of transition from the prior headcount assessment method (i.e. those with GFI between $100,000 and $2m) LPLC will continue to apply a 30% cap and collar on premium increases or decreases attributable to the change in assessment method. Please note, the cap or collar does not apply where the premium change is attributable to higher or lower GFI declaration this year from last year.

3. Premium rates for 2022–23

3.1 Law practices with assessed GFI under $100,000

Base premiums for law practices with assessed GFI of less than $100,000 are in accordance with Table 1 below:

Table 1 – Premium rates for firms with assessed GFI under $100,000

Assessed FY21 GFI	Base premium	Premium (including stamp duty and GST)
Nil	$169	$204.49
$1 to $19,999	$285	$344.85
$20,000 to $39,999	$675	$816.75
$40,000 to $59,999	$1,290	$1,560.90
$60,000 to $79,999	$2,123	$2,568.83
$80,000 to $99,999	$3,173	$3,839.33

3.2 Law practices with assessed GFI of $100,000 or more

Base premiums are calculated as a percentage of a law practice's GFI for the financial year ending 30 June 2021 and provide a smooth progression of premiums as GFI increases.

These rates are determined on advice from LPLC's actuary and reflect the claims experience of law practices insured by LPLC for particular GFI ranges.

Past GFI is used for established law practices as it is a known figure and provides a reasonable proxy for risk exposure to claims in the upcoming year.

For illustrative purposes, some example premiums are shown in Table 2.

Table 2 – Example premium rates for law practices with assessed GFI of $100,000 or more

Assessed GFI (examples)	Rate	Base premium	Premium including stamp duty and GST
$100,000	3.44%	$3,607	$4,364.47
$200,000	2.83%	$5,794	$7,010.74
$350,000	2.19%	$7,771	$9,402.91
$500,000	1.87%	$9,433	$11,413.93
$1,000,000	1.37%	$13,809	$16,708.89
$1,500,000	1.14%	$17,085	$20,672.85

3.3 New law practices commencing on and after 1 July 2022

Base premiums for new law practices commencing after 1 July 2022 are calculated in accordance with their estimated GFI for the financial year ended 30 June 2023.

Premiums will be in accordance with section 3.1 or section 3.2 above according to the estimated GFI.

The estimated GFI will be reconciled against actual GFI at the conclusion of the 2022–23 insurance year,and adjusted if there is a significant variation in GFI (see refunds and increases in Section 7).

4. Payment details

Your practice's insurance renewal with LPLC must be completed before practising certificates will be issued by the Victorian Legal Services Board to principals and employee practitioners.

Please complete and submit your online renewal and make your payment by 31 May 2022.

There are a variety of payment options.

Credit card or BPAY

Online payment can be made by credit card or BPAY.

Premium funding

We also accept payment by premium funding.

To make a payment by premium funding, complete your renewal online, select premium funding in the payment section and follow the prompts.

Premium funding payments can be made in instalments. See section 5 below.

5. Premium funding - instalment payment option

The premium can also be paid by instalments if you enter into arrangements with a premium funder. The premium funder will pay the full premium to LPLC and you will then pay the funder in instalments. Interest is payable to the funder.

You can download a premium funding application form once you get to LPLC's online payment section,or go directly to different premium funder websites via links on the payment screen.

Premium funding applications for a 12-month period must be made directly to the premium funder (not to LPLC) by no later than 3 May 2022, to enable the funder to process your application in a timely manner.

6. Concessional premiums

Concessional premium rates are offered to law practices that conduct their legal practice exclusively in one or more of the following areas:

- criminal advocates
- legal costs consultants
- mediators
- arbitrators with express statutory immunity
- matters in the Children's Court of Victoria

This year the concessional rate has been increased from 7.5% to 10% of the full premium rate.

Concessional premium rates are in accordance with Table 3 below,and are based on the law practice's GFI for the financial year ended 30 June 2021.

Newer practices which commenced after 1 July 2020 and qualify for a concessional premium based on exclusive legal practice in one or more of the above areas, have their premium assessed on estimated GFI for the financial year ended 30 June 2023 (FY22).

Please note, concessional rates are not available to law practices who are subject to a claims loading (see section 10) arising from prior claims experience.

Because concessional premiums are much lower than the full premium rate, caps and collars on premium changes in the transition from headcount assessment to GFI assessment (see Section 2 above) do not apply to concessional premiums.

Table 3 – Concessional premium rates

Assessed FY21 GFI	Base premium (per law practice)	Premium (including stamp duty and GST)
Nil	$169	$204.49
$1 to $99,999	$289	$349.69
$100,000 or more	10% of the full premium rate, calculated as per section 3.2.	

7. Refunds and increases

Law practices with premiums based on actual GFI

As premiums are based on actual GFI for a prior period, no mid-year adjustments of premium are made.

If a practice pays for a full year and subsequently ceases to practice, no refund is payable. In that event the practice will move to the run-off pool at no additional cost.

If a practice acquires an interstate firm during the current year not already insured by LPLC, an additional premium will be calculated by LPLC and invoiced to the practice.

Law practices with premiums based on estimated GFI

Where premiums are calculated in accordance with estimated GFI, refunds are made and increases invoiced following later reconciliation when there is a significant variation between estimated and actual GFI declarations.

Moving interstate

Where a law practice moves interstate its insurance is transferred to another compulsory scheme interstate (and cancels their policy with LPLC because it is no longer required to be insured by LPLC), a pro rata refund of unused premium will be provided.

8. New locum practitioners

Those intending to commence legal practice in 2022–23 as a locum solicitor must hold a principal's practising certificate.

Premium rates are calculated in accordance with section 3.3.

9. Excesses

The standard policy excess is specified in the certificate of insurance issued to each law practice, as shown in the second column in Table 4 below.

The excess is exclusive of defence costs and is calculated with reference to the law practice's GFI for the year ended 30 June 2021.

Table 4 – Specified excesses

Law practice gross fee income	Standard Excess	Excess (for higher claims frequency law practices)
$0 - $99,999	$2,000	$7,500
$100,000 - $499,999	$5,000	$7,500
$500,000 - $999,999	$7,500	$11,250
$1,000,000 - $1,999,999	$10,000	$15,000
$2,000,000 - $2,999,999	$15,000	$22,500
$3,000,000 - $4,999,999	$20,000	$30,000
$5,000,000 - $9,999,999	$25,000	$37,500
$10,000,000 - $19,999,999	$40,000	$60,000
$20,000,000 - $24,999,999	$60,000	$80,000 (exclusive of costs)

10. Risk rating — claims loadings

Law practices may be subject to a claims loading on the premium based on their claims experience.

The calculation of loadings has not changed for 2022–23 and is explained below.

Calculation of loss ratio

An individual loss ratio (expressed as a percentage) will continue to be calculated for each law practice by dividing the practice's incurred claims[1] over the past five completed insurance years, with the net premium paid by the law practice in the same period or $125,000 (whichever is the greater).

[1] Incurred claims include payments made by LPLC for settlement and defence costs on finalised matters and outstanding reserves on unresolved claims.
Estimates on notifications are excluded from the calculation, as are amounts paid where the law practice was exonerated or defence costs only were incurred.
The value of any single claim is also capped in the calculation at not more than $1.25m to give a better balance between claim frequency and claim size risk drivers.
Claims from 'prior practices' merged into the practice are also included in the calculation.

Calculation of claims loading

A claims loading of 1% of the base premium applies once a law practice's loss ratio exceeds 125%. The loading rises by 1% for each 5% increase in loss ratio.

There is a maximum claims loading of either 20%, 40% or 80% of the base premium. The maximum percentage depends upon the GFI of the law practice and number of claims incurred in the five-year period as explained below. This ensures that practices with more claims frequency are potentially subject to higher loadings.

<u>Maximum loadings for law practices with gross fee income up to $3m</u>

- if one claim in the five-year period — maximum loading is 20%
- if more than one claim in the five-year period (higher claims frequency) — maximum loading is 80%

<u>Maximum loadings for law practices with gross fee income between $3m - $25m</u>

- if one claim in the five-year period — maximum loading is 20%
- if two claims in the five-year period — maximum loading is 40%
- if three or more claims in the five-year period (higher claims frequency) — maximum loading is 80%

Increased excess for law practices with higher claims frequency and high loss ratio

Law practices with higher claims frequency <u>and</u> a loss ratio above 175% are also subject to a higher frequency excess for any claims in the forthcoming insurance year.

The higher frequency excess will be in accordance with the third column in Table 4 above.

Note, claims where LPLC has made no payment <u>and</u> holds no reserve, are excluded from the calculation of claims frequency for risk rating purposes.

11. Changes to LPLC's insurance policy wording for 2022–23

Solicitors (defence costs exclusive excess) policy wording

The policy wording for 2022–23 has been approved by the Victorian Legal Services Board and is available on the LPLC renewal portal and website.

There are three areas of amendment to the policy wording for 2022–23.

1. Cyber-related amendments

(a) <u>Amendment of the definition of 'Defence Costs' — clause 28.7</u>

The addition of sub-clauses (B) and (C) make clear that the LPLC insurance contract does not cover:

(i) any ransom or extortion payment, or any cost or expense incurred in relation to a ransom or extortion demand; or

(ii) the costs of restoring or replacing an insured's information technology systems.

Ransom and extortion payments offend public policy and LPLC will not pay them.

Costs of restoring or replacing an insured's own IT systems are first party losses and not covered under a professional indemnity policy which insures against legal liability to a third party.

(b) Amendment of the 'one loss' provision — clause 7

This inclusion of a new sub-paragraph (c) in clause 7 will allow all claims against an insured arising from any:

(i) 'cyber act' — in summary an unauthorised act involving the use or access of a computer system; and/or

(ii) 'data breach' — in summary an unauthorised acquisition, use, or disclosure of confidential or personal information from a computer system,

or any series of related cyber acts and/or data breaches, to be aggregated as one 'loss' and therefore subject to a single excess and a single limit of indemnity.

It is consistent with other situations in which certain claims are aggregated under the policy to regard all claims arising from any cyber act or data breach (or series' thereof with unifying features) to be treated as a single loss.

Definitions of 'cyber act', 'computer system' and 'data breach' are adopted at the end of clause 7.

2. *Conduct of any claim or proceeding — clause 23*

Clause 23 has been re-modelled to expressly allow LPLC to assume conduct of any claim, whether it is the subject of a proceeding or not. For example, where there is a letter of demand and it is appropriate to address the claim prior to the commencement of proceedings and potentially avoid the costs of litigation.

3. *Clarification amendment — clause 7*

There is a minor clarification amendment to clause 7 to delete the words 'against any Insured' from sub-paragraph (a) to ensure the language in (a) is consistent with sub-paragraphs (b) and (c).

No conceptual difference is or was intended between the provisions and the amendment avoids any potential for a suggestion that a different meaning was or might have been intended.

12. Collection of gross fee income data by 'area of practice'

LPLC is again collecting information on the break-up by area of practice of each law practice's GFI for the financial year ended 30 June 2021.

This helps LPLC to better understand the profession's risk profile and develop more targeted risk management programs. It also enables our actuaries to review, at a high level, the extent of any premium cross-subsidisation across areas of practice.

The areas of practice are detailed in Table 5 below and you will be asked to provide this data when completing your renewal online.

Table 5 – Areas of practice

Area of Practice	% of GFI
Real property (conveyancing, planning, property development, lease etc)	%
Commercial law (includes business advice, sales and acquisitions, contracts, revenue, tax, intellectual property, trusts, employment, general advice)	%
Civil litigation & Disputes (includes arbitration, personal injury litigation, insurance litigation, construction litigation and workplace litigation)	%
Banking & Securities (includes finance, PPSA, mortgages, advice to borrowers and guarantors)	%
Government (includes administrative, inquiries, regulatory)	%
Family law (includes matrimonial, de facto)	%
Succession (includes wills, probate, estates, powers of attorney, elder law, notarial)	%
Criminal law (includes crimes compensation, child protection, coronial)	%
Migration law	%
Other (includes costs consultants, mediators)	%
TOTAL (must equal 100%)	**100%**

13. Law Institute of Victoria Professional Standards Scheme

We are asking law practices to indicate (via a question on the renewal portal) whether all practitioners engaged in the law practice will be a member of the LIV Professional Standards Scheme (PSS) for the 2022–23 insurance year.

We are collecting this information to assist with managing any claims that might be made during the year, and to improve data capture to help the LIV with its reporting obligations under the Professional Standards Act.

Please note, LPLC does not administer the PSS, and any enquiries in relation to membership and operation of that Scheme should be directed to the LIV, or via the contact details listed for the PSS on [LIV's website].

14. Top-up insurance

All law practices should consider whether the nature of their work might expose them to potential claims beyond the $2m (inclusive of defence costs) limit of cover available under LPLC's policy.

For top-up insurance in excess of the LPLC compulsory primary professional indemnity insurance of $2m per claim, you should make enquiries through a broker of your choice in the commercial market.

Marsh Insurance Brokers provide a top-up policy with wording drafted specifically to sit over LPLC's wording. For more information go to the Marsh website.

15. Cyber insurance

Cyber incidents continue to threaten significant disruption and loss to law practices.

LPLC's professional indemnity policy covers claims made by clients or third parties against the law practice for compensation or damages arising from a cyber incident, but it does not cover the practice for its own costs to investigate a cyber incident, remediate its own IT systems, or cover losses due to business interruption, loss of profits, regulatory fines, penalties or ransom payments.

A range of cyber insurance options are available in the commercial market, including one from Marsh/Chubb which has been designed for law practices whose professional indemnity insurance is with LPLC, and whose policy wording sits neatly with LPLC's PI policy. For more information go to the Marsh website.

16. Further enquiries

For all further queries about insurance premiums or insurance renewal please contact us via renewals@lplc.com.au and we will respond promptly.

Legal Practitioners' Liability Committee
April 2022

LEGAL PRACTITIONERS' LIABILITY COMMITTEE

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