



Legal Indemnities Predictions 2022

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1. The keenly-awaited decision on planning reform will shape legal indemnity insurance

The outcome of the Government's review of its proposed planning reforms will shape the landscape for development and legal indemnity insurance. The Government's proposed reform of the UK planning system was intended to simplify the rules and avoid the long-standing battles that can be fought locally to prevent development. These battles materialise in legal indemnity claims against judicial review and restrictive covenant policies in particular. If the Government pivots away from housebuilding on greenfield sites there will be a greater need for indemnity policies to cover the risks that burden most brownfield sites.

2. The impact of the pandemic will result in more claims against lender policies

The surge in property sales during the pandemic coupled with the economic impact of COVID-19 will result in more claims against lender policies. Workload pressures on conveyancing solicitors to complete sales in advance of the SDLT holiday deadline will have increased the risk of identity fraud and human errors, such as failure to register charges. The combination of a greater risk of over-valuations by surveyors due to lockdown restrictions limiting the availability of on-site inspections; the end of the furlough scheme; potential interest rate rises; possible property price falls and the risk of a rising number of borrowers missing mortgage payments could create a perfect storm for increased claims against lender policies.

3. Profit share compensation will become the norm in rights to light claims

Compensation based on profit share rather than traditional book value will become the norm in negotiated settlements of rights to light claims. It is vital that insurers write policies on the basis of complete and correct data. The quality of the pre-inception surveyor's report is key and the insured developer must provide full assistance in supplying the necessary information. Recent years have seen an increase in rights to light claims and any pivot back towards development on brownfield sites will increase this trend. Careful due diligence will help to avoid nasty surprises when claims are made.



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4. Love thy neighbour – an increase in claims arising from neighbour disputes?

The impact of working from home as a result of the COVID-19 pandemic will continue to cause a steady flow of claims against legal indemnity policies. Many people enjoyed their enforced time at home and engaged in home improvements. This will inevitably result in an increased number of claims against building regulation policies in the next 12 months. We also anticipate an increase in claims arising from neighbour disputes, particularly relating to access, as the goodwill engendered by the early days of the pandemic subsides and the stresses of the new normal play out at the expense of neighbourly relations.



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