

The Law Society of Scotland  
Master Policy for Professional  
Indemnity Insurance and its  
Administration 2018

Annual report

June 2019



# Lockton is a global professional services firm with 6,500 Associates who advise clients on protecting their people, property and reputations.

Lockton has grown to become the world's largest privately held, independent insurance broker by helping clients achieve their business objectives.

For eight consecutive years, Business Insurance magazine has recognized Lockton as a "Best Place to Work in Insurance."

*Our 96% client retention rate speaks for itself.*



Over 6,500 associates



90% reinvestment due to our private ownership



Over \$27 billion premiums placed



Clients in over 125 countries



Over 50,000 clients



85+ offices worldwide



Exceptional client retention rate (96%)



\$1.44 billion revenues



Over 9% annual organic growth since 2000

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# Introduction

Delivering the continuity of the Master Policy remains the principal objective of Lockton's remit as Broker and Administrator to the Master Policy.

This Report provides an overview of the Master Policy for Professional Indemnity Insurance as renewed in 2018 and delivered and administered successfully to the Profession through our portal:

[www.locktonlaw.scot](http://www.locktonlaw.scot)

We set out the demographics, claims statistics and risk management deliverables which are all key in both the rating and long term sustainability of the insurance.

We also look at the recent change in insurance market conditions for Professional Indemnity Insurance and the impact on the Master Policy and Top-Up insurance for the profession.

With a number of external factors also likely to have an impact on the Master Policy, we touch on some special considerations.

Whilst extremely proud of what Lockton have achieved and delivered in the first two years of our appointment, we are committed to the continued enhancement of our service to The Law Society of Scotland Insurance Committee and to the Profession.



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# The Master Policy in 2017/2018

Maintaining a Master Policy for the Profession was an imperative of the Lockton broking strategy.

## The “Three Year Deal”

At the outset of our negotiations on the 2017/2018 Master Policy, Lockton successfully reduced the global premium from £18.1m to £17.25m. Critically, Lockton secured continuity of cover for a three year period and ensured further premium savings with a reduction in the global premium to £16.55m in 2018 and to £16m in 2019.

The agreed premium reductions are dependent upon a number of profitability review triggers in relation to the total number of notifications, total claims paid and other external economic factors concerning the Bank of England base rate and the UK avoiding recession in two consecutive quarters.

## 2017/18 Terms

Limit of Indemnity: £2,000,000 Any one claim  
Self-insured amount: £4,500 per Principal (as standard) maximum x15 Principals  
Global Premium: £17,250,000  
Basic rate premium per Principal charge: £5,350

### Insurers:

Royal & Sun Alliance Insurance plc	43.7600%
CV Starr (Lloyd’s Syndicate 1919 CVS)	20.1605%
Allianz Global Corporate & Specialty SE	14.7092%
Antares (Lloyd’s Syndicate 1274 AUL)	5.6450%
Argo Insurance (Lloyd’s Syndicate 1200 AMA)	5.6450%
XL Insurance (Lloyd’s Syndicate 2003 XLC)	5.2418%
Everest (Lloyd’s Syndicate 2786 EVE)	4.8385%

The allocation of the Global Premium was calculated by the application of the Master Policy Rates and Rating Factors Rules 2017/2018

## Insurance Market Conditions

The value of a “Three Year Deal” on the Master Policy should not be underestimated as it gives continuity of cover and stability of pricing. This has proven to be of significant benefit to the Profession in Scotland as we now experience a “hard market” for Professional Indemnity Insurance at both Primary and “Top-Up” Limits of Indemnity.

Having fixed the “Three Year Deal”, the Profession is protected from the significant impact of hard market increases in premiums and restrictions in cover (some reduced Limits of Indemnity or blanket exclusions for some categories of work).

Increased self-insurance is also being imposed in the “hard market”. The “Three Year Deal” also maintains the levels of deductible acceptable to the Profession.

A hard market also affects Insurers’ “capacity” hence the impact upon Top-Up cover. Here we have experienced significant premium increases being imposed as Insurers try to re-position their profitability.

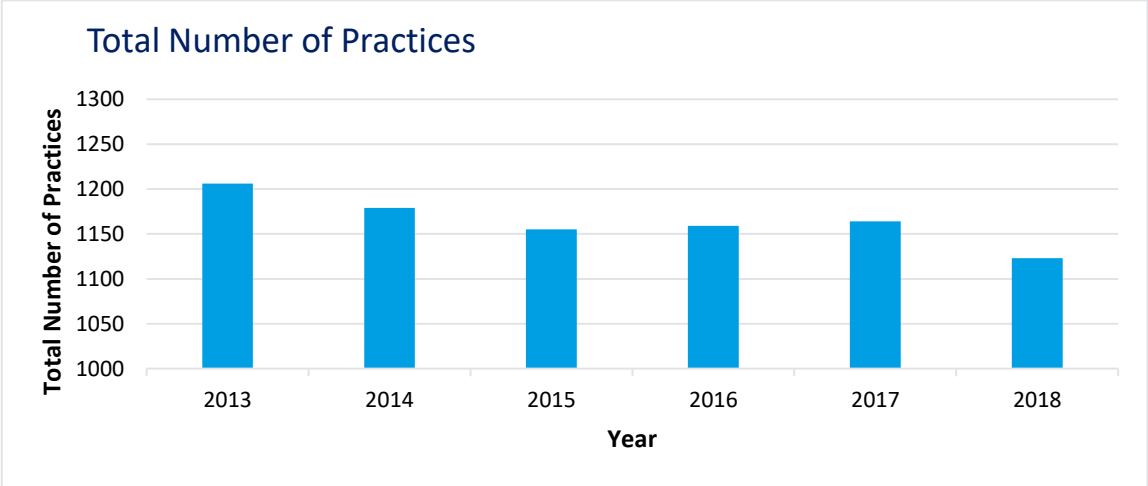
Alive to the fluidity and vagaries of Insurers’ appetite for risk, Lockton ensure that a Plan B is always under consideration by the Insurance Committee to future-proof The Master Policy.

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# Demographics of the Profession in Scotland

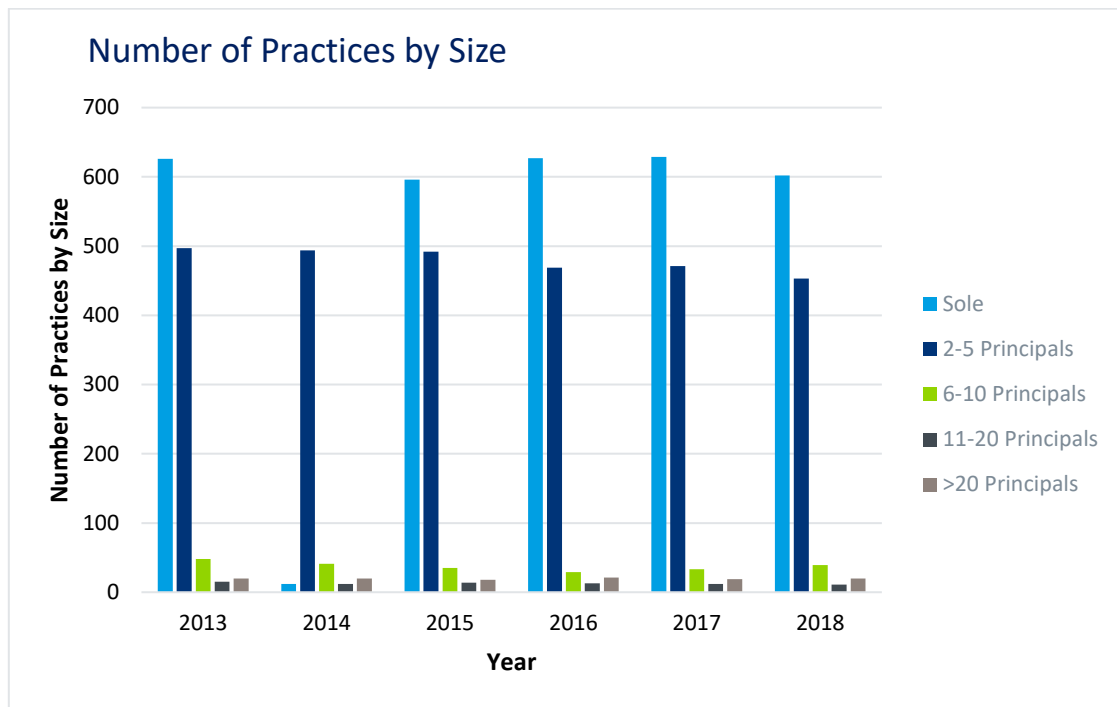
The following tables and graphs illustrate some key factors which influence the continued provision and costs of the Master Policy for Professional Indemnity Insurance:

Number of Practices



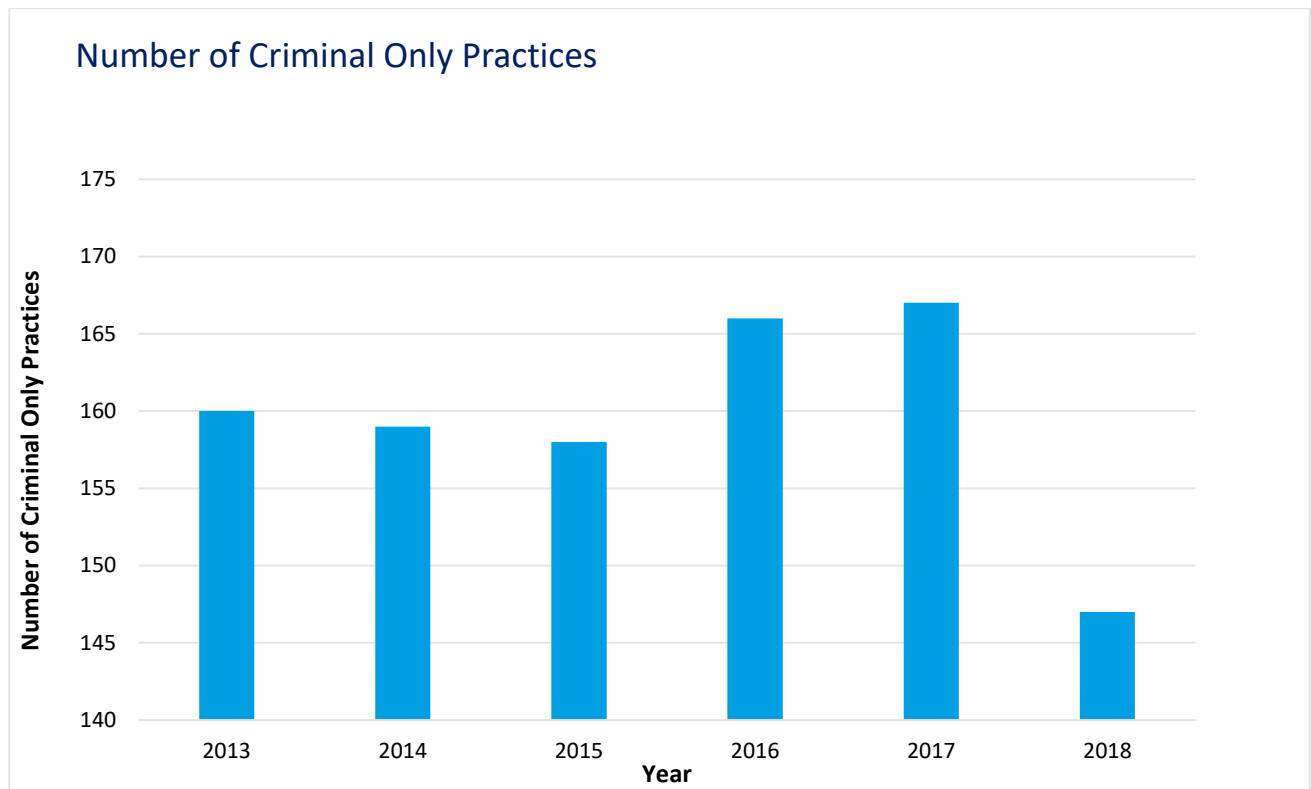
Year	Total Number of Practices
2013	1206
2014	1179
2015	1155
2016	1159
2017	1164
2018	1123

Profile of Practices by number of Principals



Year	Sole	2-5 Principals	6-10 Principals	11-20 Principals	>20 Principals
2013	626	497	48	15	20
2014	612	494	41	12	20
2015	596	492	35	14	18
2016	627	469	29	13	21
2017	629	471	33	12	19
2018	602	453	39	9	20

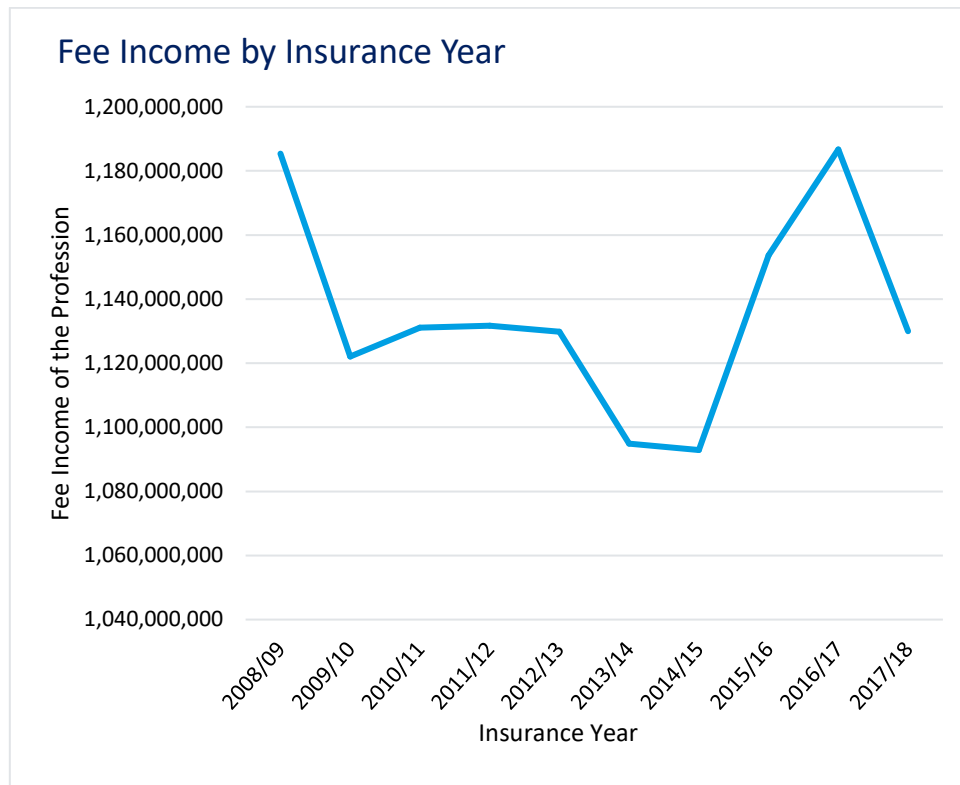
## Number of Criminal Court Only Practices



Year	Number of Criminal Only Practices
2013	160
2014	159
2015	158
2016	166
2017	167
2018	147



## Fee Income of the Profession



Insurance Year	2008/09	2009/10	2010/11	2011/12	2012/13
Fee Income of the Profession	£1,185,382,894	£1,122,076,024	£1,131,083,470	£1,131,688,865	£1,129,815,553

Insurance Year	2013/14	2014/15	2015/16	2016/17	2017/18
Fee Income of the Profession	£1,094,897,597	£1,092,906,982	£1,153,646,493	£1,186,685,834	£1,129,977,667

The number of Principals, total fee income and level of property/conveyancing fees remain the key factors in rating a firm's premium as a proportion of the global premium. The Rates & Rating Factors and discounts and loadings thereon are reviewed annually to ensure they remain fair and relevant as a means of allocating The Master Policy global premium.

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# Statistical Review of Intimations made in the Master Policy period 2017/2018

Actuarial analysis of the claims statistics underpins the total premium which Insurers require to charge the Profession in Scotland for the Master Policy for Professional Indemnity Insurance.

The tables and graphs below provide a summary of the last full year of intimations as at March 2019.

## Summary

YOA	Number of Claims/Circs	Damages Paid	Costs Paid	Current Reserves	Third Party Costs Paid	Total Incurred
2017	482	£1,201,263	£544,760	£3,553,321	£30,777	£5,330,122

Number of Intimation	482
Total Number of Claims	242
Total Number of Circumstances	240
Total Damages Paid	£1,201,263
Total Third Party Costs Paid	£30,777
Defence Costs Paid	£544,760
Current Reserves	£3,553,321
Loss Ratio	32%

## Intimations by work type:

Cause	Number of Claims
Commercial	18
Corporate	14
Court	116
Financial Services	8
General	6
Not Yet Known	22
Property/Conveyancing	216
Tax Advice	2
Trust and Executry	80
<b>Grand Total</b>	<b>482</b>

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Paid and/or Reserved Large claims (>£100,000)

<b>Cause Type</b>	<b>Damages Paid</b>	<b>Costs Paid</b>	<b>Estimate</b>	<b>No of Principals</b>
General	£325,915	£1,385	£13,000	2
Trust and Executry	£177,500	£12,796	£0	5
Property/Conveyancing	£0	£11,508	£361,790	9
Court	£0	£5,660	£196,950	8
Property/Conveyancing	£0	£7,200	£400,000	14
Property/Conveyancing	£130,000	£6,059	£20,000	2
Court	£0	£0	£100,000	3
Court	£0	£2,700	£312,810	1
Trust and Executry	-£18,000	£0	£100,000	10
Property/Conveyancing	£0	£0	£175,000	1

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# Prior Years Claims Data

Claims for Professional Indemnity are often complex and their resolution can take years rather than months depending on a number of factors and with ensuing costs. As a result, Insurers can experience a deteriorating loss ratio for at least 5 years from date of intimation - and possibly beyond.

As such, the prior years' loss ratios are analysed in triangulation by insurers and their actuaries when calculating the Global Premium for the Master Policy.

Policy Year	Premium	Claim	Reserve	TPR	Loss Ratio
2003/2004	13,716,050	9,619,060	1	9,619,061	70.13%
2004/2005	14,054,111	9,483,447	11,570	9,495,017	67.56%
2005/2006	13,299,184	10,035,474	751	10,036,225	75.46%
2006/2007	12,934,412	14,103,761	155,013	14,258,774	110.24%
2007/2008	13,696,123	20,049,243	13,645	20,062,888	146.49%
2008/2009	14,622,779	17,117,592	123,265	17,240,857	117.90%
2009/2010	16,023,668	18,202,275	117,001	18,319,276	114.33%
2010/2011	16,743,826	16,281,724	1,721,505	18,003,229	107.52%
2011/2012	17,214,998	17,953,326	836,087	18,789,413	109.15%
2012/2013	18,067,177	15,884,527	903,316	16,787,843	92.92%
2013/2014	19,152,025	10,512,658	988,107	11,500,765	60.05%
2014/2015	19,855,859	7,885,046	1,171,920	9,056,966	45.61%
2015/2016	20,632,968	3,876,860	2,786,575	6,663,435	32.30%
2016/2017	18,167,296	3,497,664	4,267,975	7,765,639	42.75%
2017/2018	17,226,548	2,166,222	3,281,501	5,447,723	31.62%

<b>Five Year Rolling Totals</b>					
<b>Policy Year</b>	<b>Premium</b>	<b>Claim</b>	<b>Reserve</b>	<b>TPR</b>	<b>Loss Ratio</b>
2007/2008	67,699,880	63,290,986	180,980	63,471,966	93.75%
2008/2009	68,606,609	70,789,517	304,244	71,093,761	103.63%
2009/2010	70,576,166	79,508,345	409,675	79,918,020	113.24%
2010/2011	74,020,808	85,754,595	2,130,429	87,885,024	118.73%
2011/2012	78,301,394	89,604,160	2,811,503	92,415,663	118.03%
2012/2013	82,672,448	85,439,444	3,701,174	89,140,618	107.82%
2013/2014	87,201,694	78,834,510	4,566,016	83,400,526	95.64%
2014/2015	91,033,885	68,517,281	5,620,935	74,138,216	81.44%
2015/2016	94,923,026	56,112,417	6,686,005	62,798,422	66.16%
2016/2017	95,875,324	41,656,755	10,117,893	51,774,648	54.00%

<b>Ten Year Rolling Totals</b>					
<b>Policy Year</b>	<b>Premium</b>	<b>Claim</b>	<b>Reserve</b>	<b>TPR</b>	<b>Loss Ratio</b>
2013/2014	155,808,303	149,624,028	4,870,260	154,494,288	99.16%
2014/2015	161,610,051	148,025,626	6,030,610	154,056,236	95.33%
2015/2016	168,943,835	141,867,012	8,816,434	150,683,446	89.19%
2016/2017	174,176,719	131,260,915	12,929,396	144,190,311	82.78%

<b>3 Year Grouping</b>					
<b>Policy Year</b>	<b>Premium</b>	<b>Claim</b>	<b>Reserve</b>	<b>TPR</b>	<b>Loss Ratio</b>
2003 - 2004	41,069,345	29,137,982	12,322	29,150,304	70.98%
2005 - 2008	41,253,314	51,270,596	291,923	51,562,519	124.99%
2009 - 2011	49,982,492	52,437,325	2,674,593	55,111,918	110.26%
2012 - 2014	57,075,061	34,282,231	3,063,343	37,345,574	65.43%
2015 - 2017	38,800,264	7,374,524	7,054,550	14,429,074	37.19%

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# Claims Analysis

The loss ratio is calculated for each year by adding the total amount paid and reserved on claims and dividing that figure by the premium income paid to insurers that year (x 100). In simple terms, when the loss ratio exceeds 100% this equates to insurers losing money, having paid more in claims than they collected in premium. In reality, after allowing for expenses insurers are considered to be losing money when a loss ratio exceeds 80%.

In 5 of the past 10 years the loss ratio exceeded 100% and we must not lose sight of this fact when considering the impact on the Global Premium charge both now and in the future.

Whilst it is very pleasing to see the loss ratio having improved quite significantly over the past 5 years, there must not be any complacency.

It is also recognised that in times of a significant downturn in the economy, claims for professional negligence increase substantially as evidenced by the intimation numbers to the Master Policy from 2008/2009 through to 2012/2013.

Given all of this, we are aligning our Risk Management (RM) objectives by delving into both current and historic claims issues faced by the Master Policy to ensure we are developing a RM programme that will ensure the improving claims picture continues long into the future. Evidencing the Professions commitment to a long term RM strategy will be critical in our negotiations with Insurers for an affordable and sustainable Master Policy in years to come.

## Claims Trends

Cyber Fraud / Crime remains one of the biggest risks to the profession and accounted for some of the largest losses to the Master Policy in the past 2 years. Firms need to be mindful of any transaction that involves the transfer of funds and consistently review the robustness of the systems which they have in place to protect both themselves and their client from falling foul of the latest scam, becoming ever more sophisticated.

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# Risk Management in Practice

Risk Management remains central to the continuity of the Master Policy and Lockton, together with the Law Society's Insurance Committee, are committed to ongoing delivery of relevant risk management support for the benefit of the profession and so help to improve the claims experience of the Master Policy.

## Risk Management in 2017/18 Year

The approach to risk management this year has been focussed heavily around the key initiatives launched by the Society's Insurance Committee. These concentrate on areas which are known to drive claims, therefore seeking ways to help firms mitigate or even avoid claims in the future.

In addition we have sought to provide a themed approach to risk management with delivery of topics across multi-channels e.g. Journal articles, website articles or templates/tools all supporting the specific theme in question.

We have also provided support and materials in relation to regulatory, compliance or legal issues as they arise.

In our delivery of risk management, we had two key ambitions this year:

- a) to support the key risk management initiatives launched by the Insurance Committee and
- b) to increase engagement with the profession to promote their use of the risk management materials we provide and increase their understanding of risk management in general

## Insurance Committee Key Risk Management Initiatives

### 1. Compulsory Risk Management CPD Content

During this insurance year the Society, at the instigation of the Insurance Committee, announced that from 1<sup>st</sup> November, 2018 there will be a requirement that at least one hour of the compulsory CPD for all solicitors who hold a practising certificate should be dedicated to the topic of risk management. This will require solicitors to undertake annual compulsory risk management CPD relevant to them and their roles. While the requirement is for one hour, it is recommended that practitioners should engage in at least two hours of risk management activity.

Solicitors can decide how they wish to satisfy this requirement and there is already much relevant material on the Lockton or LSOS websites. Moreover, Lockton have worked with the Law Society CPD team to produce new materials ready for November by way of launch activity. A series of six seminars are planned around the country and a recorded version to be posted on the LSOS website for those who could not attend in person. The seminars have been funded by the risk management bursary provided by the Insurers so that they can be provided free of charge to the practitioners.



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Lockton will continue to generate relevant risk management content in addition to any targeted material produced in conjunction with the Law Society team

## 2. Practice Improvement Programme

Following input which the Insurance Committee received from Master Policy co-insurers the Insurance Committee launched an initiative called the Practice Improvement Programme. This is a risk management programme, targeting individual firms with an audit and improvement plan and is funded by the risk management bursary. The ultimate aim of the exercise being to raise standards across the profession and to reduce risk at an individual firm level and therefore the cost and impact of claims to the firm and to the Master Policy.

We identified those firms with a frequency or severity of claims or where their loss ratio was high using the following criteria and data from the last six years:

- Firms with 3 or more claims where damages have been paid
- Firms with a paid amount (inclusive of costs) of £250,000 or above
- Firms with a total loss ratio of 100% or more
- Any firm where they have a significant number (6+) of outstanding claims with £1 reserves

We found 59 live firms who triggered the criteria and from this pool of firms and, with the input of RSA, we prioritised the firms to go through the first round of the programme. The programme comprises:

- Analysis of a firm's claims
- A risk management visit by an experienced solicitor to review claims and current level of risk management carried out within the practice
- Production of a report of recommended improvements
- Follow up and support in the implementation of any recommendations

In addition, once more data is available, we will analyse the content of the various reports completed as part of this exercise to draw from them, any issues which we believe would be of wider interest to other firms and those issues will help to shape further risk management themes.

## 3. Innovation Cup Competition

Launched on 18th April 2018, this was a competition to find the best risk management idea from within the profession. It was seeking that "light bulb moment" idea which might improve systems, processes or controls within individual firms.

The competition was open to all Solicitors holding a Practising Certificate, all trainees, cash-room staff working in or for private practice law firms, all accredited paralegals and law students associated with the Society.

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There was a cash prize of £1,500 for the winning entry and a commitment to help implement the idea for the future, including providing some investment if necessary.

The winning idea was a Risk Tracker which was submitted by a trainee solicitor. Lockton have developed the idea and have now launched a version of the risk tracker on their website for the benefit of the profession

### Engagement with the Profession

Increasing face to face engagement with the profession was seen as key to ensuring that the risk management initiatives and content reached as broad a spectrum of the profession as possible. For this year we have increased our engagement with the Law Society teams e.g. CPD team and the head of Sole & High Street Practices to further increase visibility with the profession. In addition we have carried out some seminars for local faculties which have also proven to be a source of useful feedback from the profession with regards to their risk management needs.

We have also welcomed the opportunity to visit individual firms to present to staff on risk management and the Master Policy.

Lockton circulate a quarterly Law Insights Bulletin to all firms providing a summary of the risk management activity in the last quarter together with links to new materials.

Finally, the Insurance Committee arranged a further series of Master Policy Roadshows in four locations which allowed an opportunity to explain in depth the workings of the Master Policy and also, critically, to launch and present on the Committee's risk management initiatives.

### Additional Risk Management Content

In addition to the increased engagement and the new risk management initiatives, Lockton continue to develop risk management materials which are then distributed to the profession via the resource centre on their website [www.locktonlaw.scot](http://www.locktonlaw.scot)

### Lockton Master Policy Management Team

In 2018 Lockton strengthened their Master Policy advisory team with the addition of two qualified solicitors – one from private practice and the other from the Society's Professional Practice Team. This enables further focus on the provision of quality risk management content and support for the profession.

In addition, Lockton have engaged the services of a practising solicitor to consult with us and contribute to the design and delivery of risk management content for the profession.

### Risk Management in 2018/19 and Beyond

The ethos of providing risk management support to the profession, free at the point of delivery will remain a key component part of Lockton's role. The key initiatives mentioned above will continue to be further developed. There will also be a 2019 Innovation Cup competition, which we envisage as an annual event.

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In terms of the nature of materials which will be delivered, the focus will be on what Lockton refer to as 'Toolkit' items i.e. things which the profession can usefully use in their day to day practice. A recent example of this is the Guide to Letters of Engagement which, at the time of writing, has been launched on the Lockton website, [www.locktonlaw.scot](http://www.locktonlaw.scot).

In addition, and in support of the new CPD requirement, Lockton will also provide some e-learning materials which practitioners can use in the achievement of their risk management CPD requirement.

In a continued attempt to improve engagement with the profession and raise risk management awareness, we will engage with law students and newly qualified staff and trainees to encourage risk management thinking early on in their career in the law. We have already addressed final year law students at Napier University and will present to the Trainees & Newly Qualified faculty of the RFPG, as well as seeking access to diploma students of other universities.

## Special Considerations

We must be mindful of a number of other factors that may impact the Master Policy for Professional Indemnity Insurance. Presently, the following issues are necessarily in the sharp focus of Lockton and The Insurance Committee.

### Withdrawal of the United Kingdom from the European Union – Brexit

In common with many of our clients, and in the absence of any clear direction to date from the government as to what will continue to be allowed from a regulatory or commercial perspective Lockton continues to put in place our post-Brexit business continuity plans to guard against any adverse impact on our operations should Britain exit the EU without a deal.

Lockton Insurance Brokers (Ireland) is a Central Bank of Ireland authorised business that can act as a European Intermediary for our EU domiciled and service requiring clients.

Lockton is putting in place additional contingency locations in the EU to ensure that we can service our current and future clients' needs if a no-deal Brexit or future trade agreement does not allow for passporting by our UK regulated entity, Lockton Companies LLP.

As greater clarity becomes available with regard to the political and regulatory environment we will advise clients which of our current options will be implemented for their placements.

The Royal & Sun Alliance (RSA) and the current Master Policy Co Insurers are well positioned with clear strategies in place.

The Master Policy can continue to protect regulated persons providing legal services within the European Union. Scottish Practices who perform work from any of their UK offices on behalf of

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European clients are protected as the work is not deemed to be under consideration as “Freedom of Services.”

The only concern for consideration as being Freedom of Services will be where such services are provided by a firm with a registered office situated in the European Union. Only firms which have an office, branch or subsidiary company operating in the EU would require a change in their individual insurance Professional Indemnity Insurance arrangements. However, cover will be arranged in the first instance by RSA, in Luxembourg, and dealt with by issuing a specific policy for this office/branch which will follow the terms and conditions of the Master Policy.

In their Response to Brexit, lead insurers RSA have stated, “RSA will continue to offer the same terms and conditions (as seen today) as Brexit has no impact on either existing or future non-EEA covers.”

The Lockton Market Securities Committee are a project team dedicated to providing guidance on insurer positions regarding scheduled exit and the impact of this upon our clients and policyholders. We will continue to report to the Law Society of Scotland Insurance Committee and the Legal Profession in Scotland as matters develop.

#### Review of the Regulation of Legal Services - The Robertson Review

Esther Robertson led the Review and the “Fit for the Future” Report of Legal Services Regulation in Scotland was published in October 2018.

The strategic imperative of the provision of The Master Policy for Professional Indemnity Insurance by The Law Society of Scotland is endorsed therein where it is stated:

“There is no reason to shift from the status quo... I do not propose that the current arrangements should be changed”.

Lockton will work closely with The Insurance Committee to ensure that The Master Policy remains “fit for purpose”.



# Lockton in the community

To us, Corporate Social Responsibility is about charity, environment and diversity. Working with and supporting our communities is more than just a necessity - it is a privilege.

For more than 40 years, Lockton associates have given back to their local communities, not because they have to, but because they want to.

Together, we believe this commitment to social responsibility builds stronger communities and families, better professional relationships and more committed associates. It is simply the right thing to do.



2017

Our target is to fund two Rainbow Trust Family Support Workers for the year, which will provide help to over 100 families.  
**£58,900k so far!**



2016

At the forefront of the fight to defeat brain tumours and is making a difference, every day, to the lives of people with a brain tumour and their families.  
**£162k**



2014-15

The money we raised sponsored an en suite bedroom in the new Cystic Fibrosis Ward's redevelopment.  
**£211k**



2013

We focused our fundraising efforts to support those affected by pancreatic cancer.  
**£67k**



2011-12

We raised money for the wounded heroes of the Armed Forces.  
**£90k**



2010

Our Associates helped provide practical, medical and financial support to push for better cancer care.  
**£93k**



2009

We raised money to help people suffering from dementia.  
**£100k**



2008

UK Associates fundraised for mobility equipment for five children to gain independence.  
**£75k**

### Our mission

To be the worldwide value and service leader in insurance brokerage, risk management, employee benefits and retirement services

### Our goal

To be the best place to do business and to work



**LOCKTON**<sup>®</sup>

Broking done *differently*

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[www.locktoninternational.com](http://www.locktoninternational.com)