



## MERGERS AND ACQUISITIONS QUESTIONNAIRE





## Completing the questionnaire

Your questionnaire is an important document and forms part of your fair presentation to Insurers. It is therefore crucial that you take the time to complete the form as fully as possible taking care to provide comprehensive answers.

## Who should complete it?

The questionnaire must be completed by an authorised individual or Principal of the firm.

## What sections need to be completed?

All applicable questions must answered.

If there is insufficient space to write answers, or you are prompted to provide additional information, please use the supplementary information page at the end of the form, attach additional information on the firm's headed paper or as a separate standalone document.

## Please Note

Changes to the Insurance Act will affect how you complete this questionnaire. Please read the Important Notes regarding the completion of this questionnaire detailed overleaf. Please also note the additional requirement within the Declaration to include details of the parties identified within the Important Notes overleaf.

## Submitting your questionnaire

You can submit your completed questionnaire, along with any supporting information, in the following ways:

### UPLOAD



**CLICK HERE**  
TO UPLOAD DOCUMENT

### EMAIL



Solicitors@uk.lockton.com  
or direct to your usual  
Account Executive

### POST



Solicitors Renewal  
Lockton Companies LLP  
138 Houndsditch  
London, EC3A 7AG  
DX 306301 Houndsditch

### FAX



0207 933 0915



## **Important notes regarding the completion of this questionnaire.**

### **1. New Duty to Make a Fair Presentation of the Risk/ Disclose Material information**

From 12 August 2016 the duty of disclosure for commercial Insurance contracts changes with the implementation of the Insurance Act 2015 ("the Act").

For risks incepting or renewing on or after 12 August 2016 you will have a new duty to make "a fair presentation of the risk". To meet this duty you still need to disclose all material information to insurers which is known to you (or which ought to be known to you). Information is material if it would influence the judgement of a prudent insurer in establishing the premium or determining whether to underwrite the risk and, if so, on what terms. Material information does not necessarily have to actually increase the risk of the insurance under consideration.

Under the Act you will be deemed to know information if it is known to any individuals in the categories below:

- (a) anyone within your business in a senior management or decision making role, and
- (b) anyone responsible for arranging the insurances.

Furthermore, under the Act, you "ought to know" what should reasonably have been revealed by a reasonable search for information held internally or externally (including by any third parties to whom services are outsourced, consultants and agents). -

In order to be able to argue that you have satisfied the duty, should an insurer allege that you have not, you must now do the following:

1. Carefully consider who are the individuals who may fall into categories (a) or (b) above, record this in writing and explain your reasoning;
2. Make enquiries of those individuals as to whether they are aware of any material information (having explained to them what this means);
3. Record the results of these enquiries in writing; and
4. Consider whether any material information could be held anywhere other than with the individuals identified at (a) and (b). If so, you will need to carry out a reasonable search. This could mean making enquiries of individuals or may in some circumstances mean having to carry out an electronic and/or physical search of records.

It is important to bear in mind that if material information is held by third parties such as accountants or lawyers, or internally by branch offices, even if it is not known to the individuals you have identified at paragraphs (a) and (b), it may need to be disclosed. Please note that you must not rely on information that may be held by us in relation to other policies that we may place on your behalf. You must ensure that all relevant information is provided to us for each and every policy that we place on your behalf. We accept no liability to you in this respect.



Your enquiries must cover all relevant group companies, branch offices etc. and the relevant personnel within them. You must ensure you make a full written record of the search made and the responses provided to ensure that you have evidence in the event of any claim being made.

In completing this questionnaire for your insurer(s), the accuracy and completeness of all answers, statements and /or information is your responsibility and it is of paramount importance that all relevant information is provided and that it is accurate. If you become aware of any material information that you supplied before the contract of insurance is finalised is incorrect or has been omitted, you should inform us immediately. If you are unsure if information is material you should disclose it.

### **What are the consequences of not making a fair presentation of the risk?**

Under the Act, in the event that there is a breach of duty to make a fair presentation of the risk, the remedies available to insurers will vary dependent on whether the breach is deliberate or reckless or otherwise. For deliberate or reckless breaches the insurer may avoid the contract, refuse all claims and retain the premium paid. Under the Minimum Terms and Conditions "MTCs" if there is a breach of the duty to make a fair presentation of risk, the Insurers do not have the right to avoid the insurance from its commencement. However this could cause you significant problems in the event of a claim and in sourcing insurance in the future.

For other, non-fraudulent or non-reckless, breaches the remedy will depend on what the insurer would have done had a fair presentation of the risk been made and what the MTCs state when published in July. Under the Act if the insurer would have accepted the risk on other terms the contract is to be treated as if those terms applied, in the event that a higher premium would have been charged any claims payments can be reduced proportionately. This latter provision is especially important because if insurers can show that they would have charged only a modest additional premium, the impact on a claim could be disproportionately large. This may mean that, whilst the claimant will continue to receive a full settlement, the insurers can seek to recover their additional outlay from the practice.

## **2. Presentation**

This questionnaire must be completed by an authorised individual or principal of the firm. **All applicable** questions must be answered. If there is insufficient space to provide answers, additional information should be provided on the firm's headed paper. Please answer all questions fully and avoid answers such as "As last year", or As already provided to...." or similar. Where available brochures, standard contract conditions, agreements and letters of appointment should be provided. **Failure to present insurers with information in an appropriate manner may adversely influence the ability of insurers to offer terms and for you to evidence that a fair presentation of the risk has been made to insurers.**

## **3. Guidance**

If in doubt as to the meaning of any question contained within this questionnaire or the issues raised in (1) or (2) above, please contact a member of your Lockton servicing team.



### **Notes to assist in the completion of the questionnaire:**

1. Identify who may hold information material to the insurance & document this, bearing in mind that this could include an external third party with whom you have a contract for services, branch offices.
2. Make enquiries of all relevant parties and record their responses before completing the questionnaire.
3. In addition to your internal enquiries with senior management, those in a decision making role and/or arranging the Insurance the types of parties that may also be relevant could include: Accountant, third party suppliers, outsourced resources, HR, IT supplier, Branch Offices etc. This list is not exhaustive as each Practice will be different.
4. Make sure that you complete the declaration to include details of the parties involved in the search.

# SOLICITORS M&A QUESTIONNAIRE

Please complete this questionnaire if your Practice has previously succeeded, merged with, or acquired any other solicitor Practice, or any part of any solicitor Practice.

To accompany this questionnaire please provide the last completed proposal form and supporting documents for any firm listed.

1 Practice name:

2 (i) If you have merged with, acquired or absorbed any other Practice, or any part of any Practice, including any Sole Practitioner, in the last 10 years, or if you are deemed to be a Successor Practice to any other prior Practice(s), please provide the following information:

Name of Practice(s)	Sole Practitioner?	Date established	Date of Succession/ Acquisition/ Merger	Was separate run-off cover arranged?	Was run-off premium due paid in full before the merger/ acquisition?	Was the SRA notified of the merger/ acquisition more than 14 days prior to the effective date?
	<div><input type="checkbox"/></div>			YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/> N/A <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>
	<div><input type="checkbox"/></div>			YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/> N/A <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>
	<div><input type="checkbox"/></div>			YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/> N/A <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>
	<div><input type="checkbox"/></div>			YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/> N/A <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>

NB: Please refer to the SRA Minimum Terms and Conditions for full definitions of Prior Practice and Successor Practice

(ii) For any Practices listed in 2(i) above with run-off cover in place, please provide the following information:

Name of Practice(s)	Insurer	Inception date of policy	Limit of Indemnity	Per claim excess	Claims notified under policy?
					YES <input type="checkbox"/> NO <input type="checkbox"/>
					YES <input type="checkbox"/> NO <input type="checkbox"/>
					YES <input type="checkbox"/> NO <input type="checkbox"/>
					YES <input type="checkbox"/> NO <input type="checkbox"/>

SOLICITORS M&A QUESTIONNAIRE

3 (i) For any Practices listed in 2(i) above with run-off cover in place, please provide the following information:

Name of Practice(s)	Reviewed financial position of the Practice	Reviewed financial position of Principals	Reviewed disciplinary record of Principals and regulatory record of firm	Reviewed risk management and internal procedures	Qualitative file audit / review of each fee earner	Compliance file audit / review for each fee earner	No. of files reviewed as part of due diligence
	YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>	
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	YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>	

(ii) For each Practice listed in table 3(i) above, please provide narrative regarding the overall outcome of your due diligence, including details of any adverse findings related to the various headings:

(iii) For each Practice listed in table 3(i) above, please provide details of the integration of the new Practice in to the existing firm structure. Please include details of whether the office was retained, number of staff retained or and not retained, implementation of new systems and procedures, management and financial controls:

Data Protection

By signing this Questionnaire you consent to Lockton Companies LLP using the information we may hold about you for the purpose of providing insurance and handling claims, if any, and to process sensitive personal data about you where this is necessary (for example criminal convictions). This may mean we have to give some details to third parties involved in providing insurance cover. These may include insurance carriers, third-party claims adjusters, fraud detection and prevention services, reinsurance companies and insurance regulatory authorities. In the course of performing our obligation to you, this information may be disclosed to agents and service providers appointed by us and insurers (which includes their re-insurers, legal advisers, loss adjustors or agents). Where such sensitive personal information relates to anyone other than you, you must obtain the explicit consent of the person to whom the information relates both to the disclosure of such information to us and its use by us as set out above. The information provided will be treated in confidence and, where appropriate, in compliance with the relevant Data Protection legislation. You have the right to apply for a copy of your information (for which we may charge a small fee) and to have any inaccuracies corrected.

From time to time, we may disclose personal information (other than sensitive personal data) to other Lockton Companies. We or they may use that information to advise you of our services which may be of interest to you.

If you would prefer not to receive information, please tick this box ☐

Proposer’s Declaration

I/ We declare that the answers to the questions in this Questionnaire are true and accurate having consulted with all Partners of the Practice / Directors of the Company.

I / We confirm that we have also undertaken a reasonable search of information available to me/us which has included the following (Please refer back to the Important Notes and list those parties that were involved in the search):

- i
- ii
- iii
- iv
- v

It is important that you consider who may hold information that may be relevant to insurers and should be included in the reasonable search of information unless confirmed otherwise. By signing this questionnaire insurers do not automatically accept that a reasonable search has been undertaken.

I/We understand that the information I/We provide will be used in deciding the price charged by the Insurer for the risk and whether the Insurer will accept the application and the terms of any policy provided.

I/We hereby consent to the use and disclosure of information including personal data for the purposes of and as set out in the above paragraph entitled “Data Protection”.

I/We hereby consent to receive by email details on other products and services including newsletters where Lockton consider that the information may be relevant and useful to us.

I/We agree to prevent and detect fraud, the insurers/underwriters may at any time:

- **Share information about me/us with other organisations including the police**
- **Undertake credit searches**
- **Check and/or share my/our details with fraud prevention and detection agencies.**

I/We are duly authorised to sign this Questionnaire by all Principals/Members/Directors of the firm

Print Name (Principal 1):

Signature:

On behalf of:

Date:

Print Name (Principal 2):

Signature:

On behalf of:

Date:

Please note, if you wish to submit your form via email, an indication of terms and conditions may be provided on the basis of this questionnaire. An original signature is required before a contract of insurance can be made. Encrypted signatures are not acceptable. Signing this form does not bind the Practice to complete the insurance. We recommend that you keep a record of all information supplied to us, including copies of letters and this questionnaire, for the purpose of entering into this contract.



SUPPLEMENTARY INFORMATION

Where you have answered YES, please write the question number followed by the answer:



## **Need assistance?**

**Check out our Guidance at [www.locktonsolicitors.co.uk/resources](http://www.locktonsolicitors.co.uk/resources)**

**Call us on 0845 0501 471**

Lockton Companies LLP is authorised and regulated by the Financial Conduct Authority.