



Small Practice Support Session Professional Indemnity Insurance

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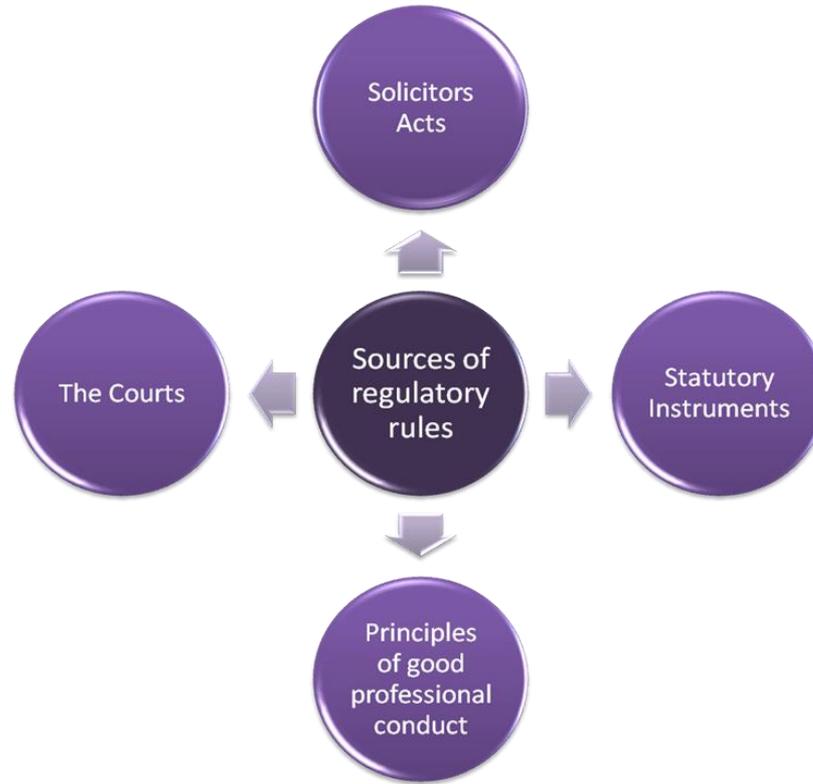


26 October 2022

Professional Indemnity Insurance – What's the point?



Sources of regulatory provisions.



Framework for regulation

Solicitors Acts 1954
to 2015

Regulations under
Solicitors Acts

Criminal Justice
(Money Laundering
& Terrorist
Financing) Act 2010

Criminal Justice Act
2011, section 19

*A Guide to
Professional
Conduct of Solicitors
in Ireland, 3rd edition*

Legal Services
Regulation Act 2015

LSI regulation continues in the areas of:

**Practising
certificates**

**Professional
indemnity insurance**

Compensation Fund

**Compliance with
Solicitors Accounts
Regulations**

**Anti-money
laundering
compliance**

**Reporting
accountant's reports**

**Disciplinary and High
Court cases in
relation to financial
regulatory matters**

**Abandoned
solicitors' practices**

Historical complaints

Minimum terms and conditions



"I think you misunderstood. The million dollar umbrella policy only covers you for claims involving an umbrella."

Relevant documentation

- S.I. No. 587/2021 - Solicitors Professional Indemnity Insurance (Amendment) Regulations 2021.
- Regulations include Minimum Terms & Conditions
- Participating Insurers Agreement
- Common Proposal Form.



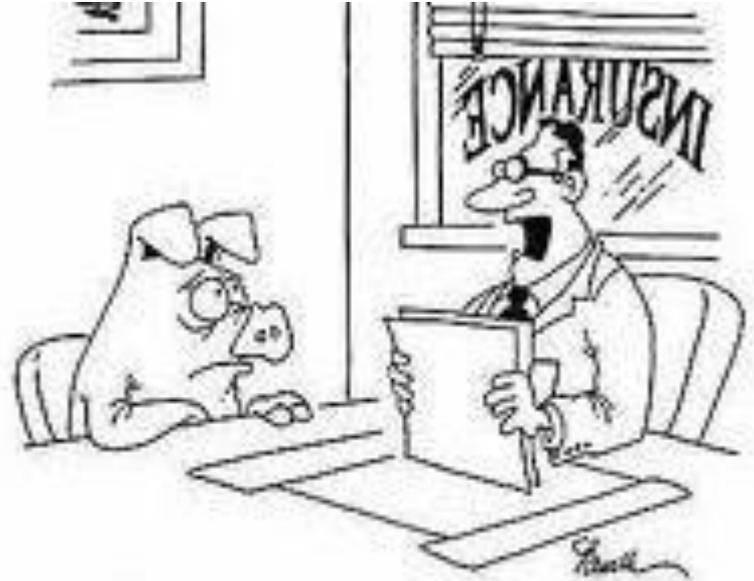
STATUTORY INSTRUMENTS.

S.I. No. 587 of 2021

SOLICITORS PROFESSIONAL INDEMNITY INSURANCE
(AMENDMENT) REGULATIONS 2021

Relevant documentation

- Assigned Risks Pool minimum terms and conditions.
- Assigned Risks Pool run-off minimum terms and conditions.
- Assigned Risks Pool premium schedule.
- Special Purpose Fund Management Committee Terms of Reference.



"Your policy does cover wind damage, but not from huffing and puffing."

Relevant documentation

- Run-off minimum Terms and Conditions.
- Run-off cover rules.
- Special Purpose Fund Management Committee Terms of Reference.



The Solicitors' PII market in Ireland



PII – Key Features

- Mandatory PII cover – solicitors in private practice cannot practise without valid PII in place. No PII, no Practising Certificate.
- PII is held by the firm, rather than individual solicitors.
- Third party cover.



PII – Key Features

- Free market – Insurance must be from one of the participating insurers (i.e. the insurer must have signed the Participating Insurer Agreement).
- Insurance must meet minimum terms and conditions.

THE NEW YORKER



“And now I will attempt the same feat but without insurance.”

PII – Key Features

- Cover €1.5 million each and every claim.
- Top-up cover separately arranged where required. (Need to maintain cover for six years post completion of services if top up cover required)
- Double trigger – Claims made and notified.
- A firm must have a principal, partner, or practice manager appointed by the Law Society under section 31 to be permitted to practice.



PII – Key Features

- PII is a requirement in order to hold a valid practising certificate.
- – if no PII is in place, then the Practising Certificate remains in force but as solicitors are prohibited from practising without PII in place even if they have a PC, no solicitor in the firm can practise / provide legal services of any kind.
- The Society may seek orders against the firm.



PII – Key Features

- Indemnity period runs 1 December to 30 November annually.
- Confirmation of PII cover must be provided within 3 working days of 1 December through the Society's online PII portal by the firm's broker.



Participating Insurers 2021/2022

Participating Insurer	Financial Rating	Country of registration	Home state regulator	Brokers	Firm type
<p>AIG Europe S.A. 35 D Avenue JF Kennedy L-1855 Luxembourg</p> <p>Irish branch: 30 North Wall Quay IFSC Dublin 1 D01 R8H7</p> <p>Tel: +353 1 208 1400</p>	<p>A+ [Standard & Pooors]</p> <p>A2 [Moody's]</p>	Luxembourg	<p>Luxembourg: Commissariat aux Assurances (the CAA)</p> <p>Ireland: Central Bank of Ireland for conduct of business rules</p>	<p>O'Leary Insurances Ltd</p> <p>Willis Towers Watson</p> <p>Arachas</p> <p>Lockton Companies International Ltd</p> <p>Marsh Ireland</p> <p>Miller Insurance Brokers</p> <p>Compass Insurance Brokers Ltd</p> <p>Crotty Insurance Brokers Ltd</p> <p>Michael Kennedy Insurance Group</p> <p>JPC Insurance Ltd</p> <p>Robertson Low Insurance Ltd</p> <p>John O'Donoghue Insurances Ltd</p>	3+ partners only

Participating Insurers 2021/2022

Participating Insurer	Financial Rating	Country of registration	Home state regulator	Brokers	Firm type
Aviva Insurance Ireland DAC One Park Place Hatch Street Dublin 2	AA- [Standard & Pooors]	Ireland	Central Bank of Ireland	All	2+ partners
Canopus Managing Agents Limited (Lloyd's Insurance Company S.A. CNP 5380) Gallery 9 One Lime Street London EC3M 7HA England	A [A.M. Best] A+ [S&P]	United Kingdom	Financial Conduct Authority	O'Leary Insurances Ltd	Sole practitioners and principals 2+ partners

Participating Insurers 2021/2022

Participating Insurer	Financial Rating	Country of registration	Home state regulator	Brokers	Firm type
CNA Insurance Company (Europe) S.A. 35F Avenue JF Kennedy L-1855 Luxembourg	A [Standard & Poors]	Luxembourg	Luxembourg: Commissariat Aux Assurance	Any brokers working through <u>Tysers Underwriting</u>	All
Hamilton Insurance DAC 2 Shelbourne Buildings, Crampton Avenue Ballsbridge Dublin 4 D04 W3V6	A- [AM Best]	Ireland	Central Bank of Ireland	All Lloyds registered brokers	5+ partners
Liberty Mutual Insurance Europe SE Second Floor 55 Percy Place Dublin 4 Tel: +353 1 436 6000	A [A.M. Best]	Luxembourg	Commissariat aux Assurances	Aon O'Leary Insurance Brokers Lockton Insurance Brokers Millers Marsh Ireland Crotty Insurance Brokers <u>Resure</u> Corporate Brokers McGivern Insurance Brokers	2-5 partner firms 5+ partners

Participating Insurers 2021/2022

Participating Insurer	Financial Rating	Country of registration	Home state regulator	Brokers	Firm type
QBE Europe SA/NV Boulevard du Regent, 37 BE 1000 Brussels	A+ [Standard & Poors]	Belgium	National Bank of Belgium	O'Leary Insurances Willis Miller Griffiths & Armour A J Gallagher London Aon	All firms with annual revenue in excess of €5 million
Starr Europe Insurance Limited Dragonara Business Centre 5 th Floor Dragonara Road St. Julians STJ 3141 Malta	A [A.M. Best]	Malta	Malta Financial Services Authority	O'Leary Insurance Brokers Howden (Accessed through local brokers) Lockton	All firms

Participating Insurers 2011/2022

Participating Insurer	Financial	Country of	Home state regulator	Brokers	Firm type
Allianz Global Corporate & Specialty SE Koniginstrasse, 28 8080L Munchen Germany UK: Allianz House 60 Gracechurch Street London EC3V 0HR Tel: +44 203 451 3015	AA [Standard & Poors] A+ [A.M. Best]	Germany	Bundesanstalt fur Finanzdienstleistungsaufsicht	Miller (and local panel brokers) Marsh Ireland	All

The following facilities are providing professional indemnity insurance on a co-insurance basis, where each participating insurer shares a portion of the risk.

Facility	Participating Insurers
Allianz-led JLT Facility	Allianz Global Corporate & Specialty SE
Allianz-led Miller Facility	Allianz Global Corporate & Specialty SE

Participating Insurers 2021/2022

Participating Insurer	Financial Rating	Country of registration	Home state regulator	Brokers	Firm type
<ul style="list-style-type: none"> ➤ The only other big ticket item is that AmTrust International Underwriters DAC have confirmed that they will join the market with a focus on small to medium size firms. ➤ AmTrust are an Irish based insurer, and are joining the Starr Europe Insurance Limited led facility which is exclusive to O’Leary Insurances Ltd. 					
AmTrust International Underwriters DAC 6-8 College Green Dublin 2 (as part of the Starr Europe Insurance Limited led facility)	A [A.M. Best}	Ireland	Central Bank of Ireland	O’Leary insurances Ltd (Exclusive Facility)	All

PII misconceptions

- Firms may have a different indemnity period to 01/12-30/11.
- Firms may purchase PII for a longer term than twelve months.
- Key is to be continually insured and to be able to confirm existence of PII to LSI annually in early December.



Premium Calculation = Base Rate + Risk

Insurer
solvency and
profit
requirements

Global PII
markets

Domestic PII
markets

Solicitors' PII
market

Areas of work

Turnover

Number of staff

Claims history

Experience

Allocation of
fees between
areas of work

Reliance on
any one client

Exposure to
other risk
factors

Premium Calculation = Base Rate + Risk

- **Claims Experience Hard Market** – Increase in premium caused by increase in risk. Can be altered (to a limited extent) by change in MTCs and risk management by firms.
- **Insurer Experience Hard Market** – Increase in premium caused by increase in base rate. Changes to MTC or risk management can only minimise increase in premium.



Profitability.

- **Profitability** = Increase Capacity-v-Premium
- Internal competition for capacity in insurers.
- **Soft Market** – Increase capacity. No increase in premium and may decrease premium to compete for capacity.
- **Hard Market** – Conservative and risk adverse so will not increase capacity. Increase premium instead.



Profitability – Increase Capacity-v-Premium.

- Very poor experience in other PII markets with much higher premium increases.
- According to the 2021 UK Howdens market report, UK solicitors premia increased by 27% on average. Before that, in October 2020,* they rose by 21%, up from 17% in the previous period, i.e. 180% in 3 years.
- Construction PII saw jumps of up to 600% in one year!



* Next UK renewal 1 October 2022.

Cyber cover

- PII regulations clarify what is not covered by third party cyber cover in MTCs.
- Why not remove cybercover? – Vital for Client Protection & protection of the profession - everything has aspects of cyber.
- Would not result in any reduction in premium due to global hard market.



Separate first party Cyber cover

- Strongly recommended.
- Ensures that your losses are covered, and gives access to experts.
- Will make your firm more attractive to insurers as this is seen as part of good risk management.



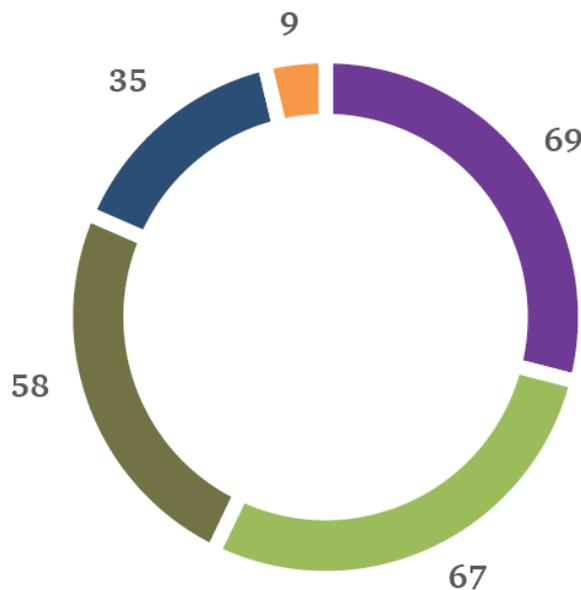
Insurers' Underwriting Criteria

- Profile of Practice.
- Fee Income.
- Areas of practice – sticking to core expertise.
- Historic exposures.
- Claims Experience.
- Risk Management (incl. cyber).
- Covid-19 –WFH / Supervision & escalation procedures , reduced team numbers.
- Annual risk management accreditation (where relevant).
- Conveyancing– buy side v sell side.
- Scope of retainer.



LSRA complaints (Oct 2019 – Mar 2020)

Inadequate Services

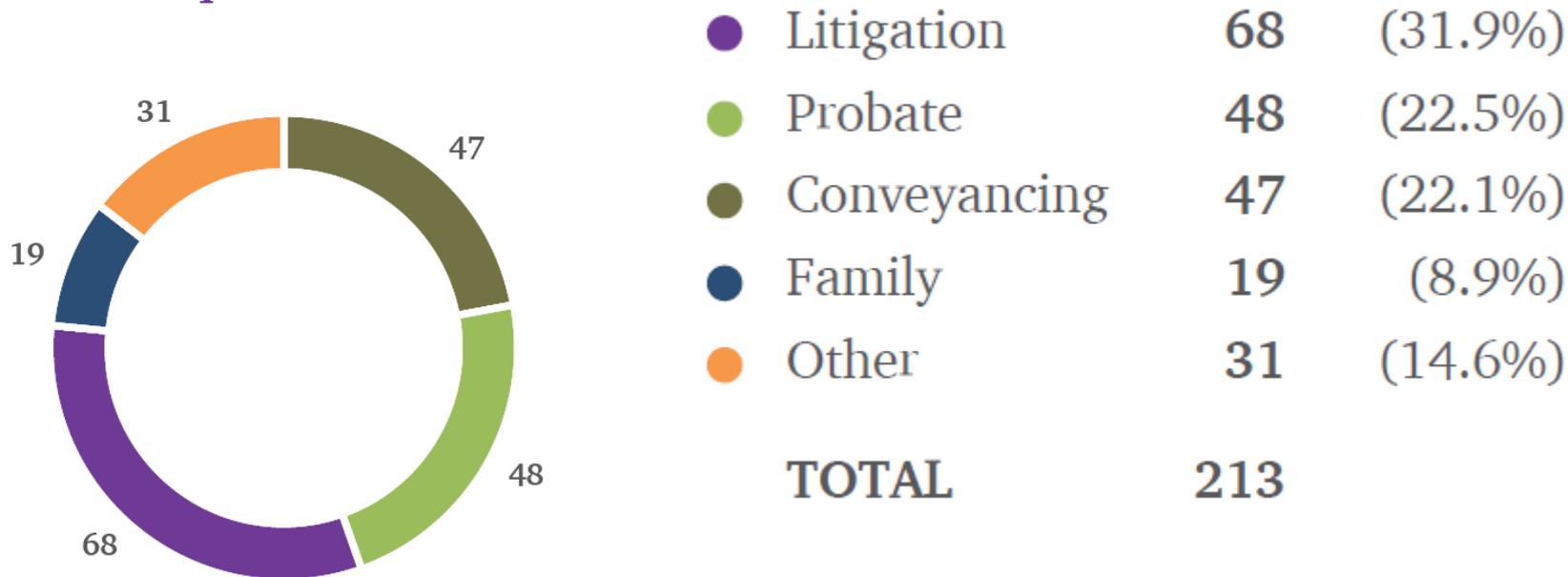


● Litigation	69	(28.9%)
● Probate	67	(28.2%)
● Conveyancing	58	(24.4%)
● Family	35	(14.7%)
● Other	9	(3.7%)

TOTAL 238

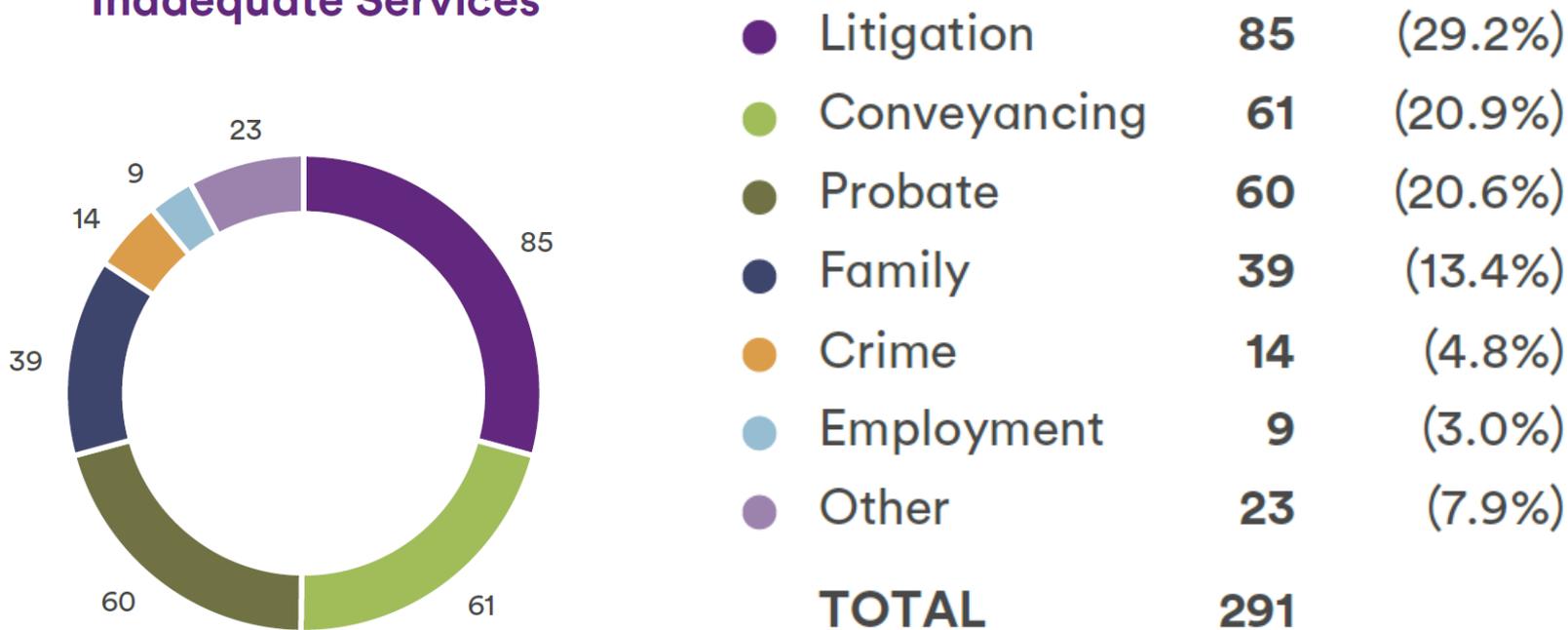
LSRA complaints (Mar 2020 – Sep 2020)

Inadequate Services



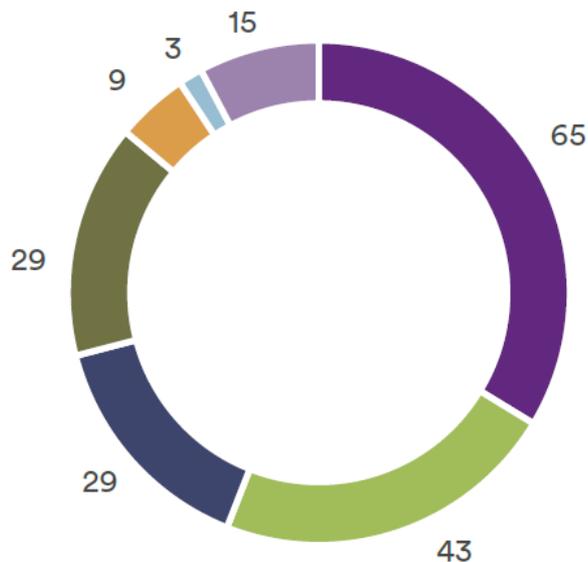
LSRA complaints (Sep 2020 – Mar 2021)

Inadequate Services



LSRA complaints (Mar 2021 – Sep 2021)

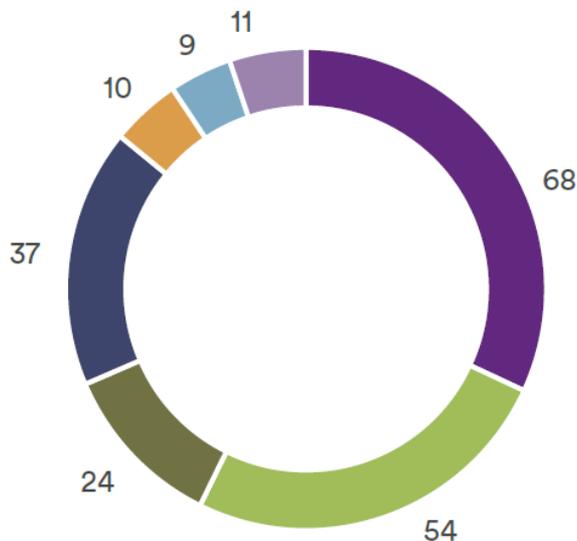
Legal Services of an Inadequate Standard



● Litigation	65	(33.7%)
● Conveyancing	43	(22.3%)
● Probate	29	(15.0%)
● Family	29	(15.0%)
● Crime	9	(4.7%)
● Employment	3	(1.5%)
● Other	15	(7.8%)
TOTAL	193	

LSRA complaints (Sep 2021 – Mar 2022)

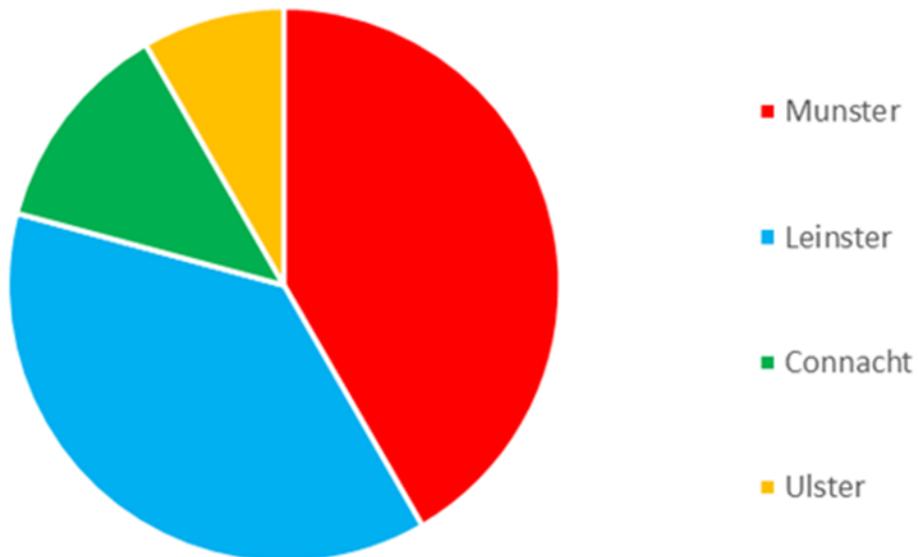
Legal Services of an Inadequate Standard



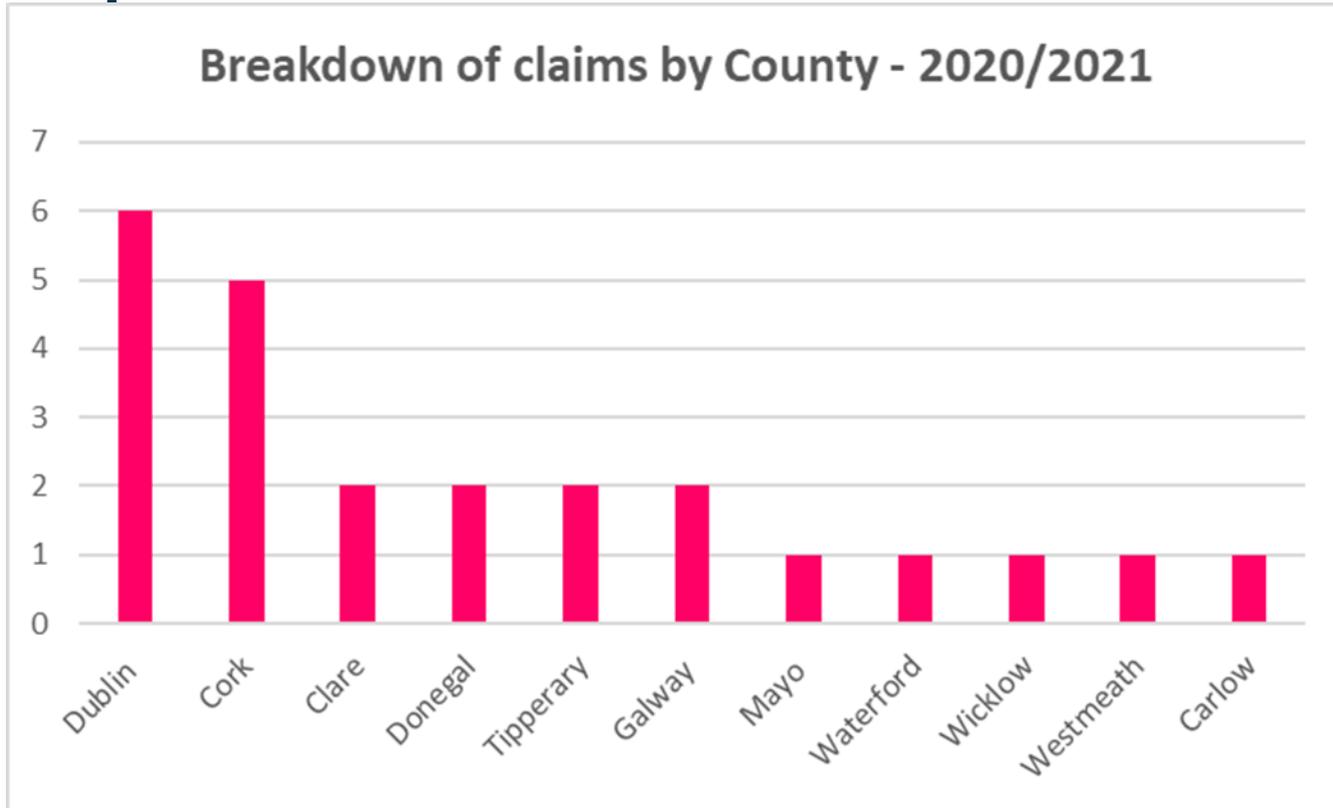
● Litigation	68	(31.9%)
● Conveyancing	54	(25.4%)
● Probate	24	(11.3%)
● Family	37	(17.4%)
● Crime	10	(4.7%)
● Employment	9	(4.2%)
● Other	11	(5.1%)
TOTAL	213	

Claims Experience

Provincial breakdown of claims 2020/2021



Claims Experience



Claims Experience

Claims against Solicitors - 2020/2021

