

26 LEGAL EXPENSES



The absence of legal aid creates opportunities for brokers to recommend insurance for clients and as John Mullin, managing director for Composite Legal Expenses, explains this could include providing an own-label scheme



John Mullin, Managing Director, Composite Legal Expenses

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When times are tough, the tough get cover!

In the last month even more media attention has been given to the problems regarding the legal aid cuts that are deemed necessary during the economic downturn. The Legal Aid Minister, Lord Bach, has stated: "More and more homeowners, employees and those facing financial hardship are vulnerable to civil law problems at the time."

It is strange that these basic rights of a well-led society tend to crash only proportionally when the economy is in a mess. It is a pity that we are unable to address these simple and basic needs when times are good. Even then, I suppose, the appetite for funds for other state services such as the NHS and education are insatiable so that even when all relatively well they cannot be satisfied.

to be offered that is comprehensive enough to resolve disputes in a civilised society. The true value and need for this private sector solution is demanded when it is not allowed to stand alone as a segment of the insurance market in its own right.

In fact, I suspect most consumers – and in that I include professionals in our industry – know very little about the covers that are available. Hence we do not talk about them. There is no effective communication with regulators such as Government, and the simple solution to the prohibitive costs of pursuing cases in the civil court remains prohibitive.

It is quite simple. The position remains the same as it did when the first UK legal expenses insurers started offering cover in 1975. Too few people have cover and there is one rule for the rich: citizens who can afford to fund litigation from their own resources. The rule for the poor is that there is a proportionally less civil legal aid available than was available 35 years ago, so poor citizens now join with the citizen in the middle who could neither afford to litigate and never qualified for civil

The Lord Chief Justice, Lord Judge, "lays the impact of potential civil claimants being priced out of the justice system." He went on to say in a recent BBC Radio 4's Law in Action programme that there was a "very serious problem" in the way that civil justice was developing in England and Wales.

The real thing about civil legal aid is that it does not have to be dependent on the state or be a burden for the taxpayer. It may well not become a element of competition by the state but to provide an acceptable service that will remove the dangerous frustration that Lord Judge refers to, would be a fraction of the cost of motor cover or building and contents cover.

Before the Event (BTE) cover is poor generally and quite often disguised and unknown to the consumer who has purchased it. Indeed we comparison sites are forcing mainstream insurers to reduce costs to make covers such as legal expenses may tend to be dropped. Perhaps this is not a bad thing if proper cover is

legal aid anyway. Are we going to supply the frustrated citizen with a brick or are we going to contain it with a fragmented approach to a private sector solution?

I will make the assumption that the brick solution is not on the menu of options and that at least the current fragmented approach – namely without State compulsion – is to be maintained. With or without Government involvement never has there been a greater need and never has there been such a unique opportunity for insurance intermediaries to become involved in the debate and provide the solution to their clients and connections.

For brokers who can deliver good numbers of units or ticks without selection from the logs of a tailor-made scheme brokers, it makes sense to start talking to the players who understand legal expenses insurance and start to market an own branded scheme. The timing is critical and as brokers may need to prepare for an early New Year campaign as there is a wide ranging review of the cost of civil court cases that is due to be reported in the month.

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CASE STUDIES

- 1 Employment Dispute
- 2 Consumer Dispute
- 3 Property Dispute



Brokers may find the following examples of claims that Composite has successfully negotiated to be of assistance in a broker's legal expenses marketing campaign. Only a portion of the covers that a proper and comprehensive cover provides are illustrated below. Beyond these, there are countless others that could be included relating to criminal prosecutions, injuries, tax disputes and so on.

1 Employment Dispute
Composite provided cover for a senior staff member at a major UK institution. The insured was made redundant and the redundancy was in the view of the appointed representative unfair and without merit. The case was set for an 8 day hearing although our appointed representatives were able to persuade the institution to settle the claim prior to the hearing for a sum in excess of £35,000. The costs in obtaining the settlement were in excess of £10,000.

2 Consumer Dispute
We provided cover to policyholders who were in dispute with a car hire dealer. They purchased a vehicle that came with a 12 month warranty. During the warranty period the car broke down. An engine repair was required that would cost in excess of £5,000. The warranty was from the manufacturer but they refused to honour the warranty on the basis that there were parts fitted to the engine that were not their parts. Solicitors were instructed to pursue the manufacturer. They were able to successfully persuade the manufacturer to honour the warranty and provide the repair that the insured would otherwise not be able to afford. Had the case proceeded to trial the costs would have been significantly in excess of the £7,000 paid.

3 Property Dispute
We provided legal expenses cover where the policyholder had water penetration to their property. Access was required from a neighbour's property to establish the cause of the ingress and commence repairs. Unfortunately the policyholder's neighbour refused access and as a consequence the water penetration ingress became worse. Civil Court action was necessary in order to allow the insured the access to solve the problem. Despite the order of the Court the neighbour remained less than cooperative. The case was eventually resolved but costs were in excess of £10,000. Such a remedy would not have been possible unless they had legal protection had been in force.