



FENCHURCH LAW

Commercial insight



“Fenchurch Law is a niche firm with ‘strong expertise in acting for policyholders’, providing ‘excellent service and a client-centred approach’. Co-founders David Pryce and Rob Fink head the team... Pryce ‘comes up with ideas that are intelligent but different; his thinking often delivers unexpectedly good results out of unpromising situations’.”

Chambers 2016

Commercial insurance exists to offer financial protection to businesses, should something unforeseen happen. However, insurance policies are by no means guarantees of payment following loss. Insurance policies are complex contractual documents, subject to a particular legal regime, the case law on which stretches back over hundreds of years. Often, companies view insurance simply as an expense to be minimised and so pay little attention to the terms of their contracts, or to the quality of their insurers, focussing solely on price as the reason for changing insurer, leaving them vulnerable to gaps in cover.

At Fenchurch Law, we focus exclusively on insurance advice for policyholders, specialising in dealing with complex coverage disputes. Working closely with our clients throughout the UK and internationally and across all industries, we are able to assist both before and after a dispute arises. We offer strategic legal advice to commercial organisations, high net worth individuals and their brokers on all aspects relating to their insurance programmes, including policy wording advice and uninsured defence work.

Our approach

Our aim is always to work proactively with all parties involved and to get the best and most fair outcome, efficiently and cost effectively. In almost all cases, it is more beneficial for a policyholder to have their broker onside.

Pursuing both legal channels (through us as solicitors) and commercial channels (through the insurance broker) is, in our experience, the most effective way of achieving the best possible outcome for policyholders. Should a policyholder’s best course of action be a professional negligence claim against the broker, we will not pursue the claim and will explain that they must look elsewhere for legal representation.

Putting policyholders first

Working commercially

The lawyers at Fenchurch Law have a broad perspective on policyholder needs and a strong commercial understanding of insurance and insurance law. Well-known and respected in the insurance market, we are an integral part of the insurance industry. As such, we are well-placed to have sensible conversations with insurers and their lawyers.

Because we have worked as brokers, claims adjusters and insurer-side lawyers, we understand both the pressures and drivers on insurers when we are pushing for payment. Often, we also know the people involved in making the decisions. This means we can advise a client whether it may be necessary to issue proceedings in order to bring an insurer to the table or whether a better outcome may be achieved with a different approach.

Working together

Our first contact with a commercial client is usually made through the broker and, together, we will meet with them in order to assess the bigger picture. If we are then engaged by the client to pursue a claim or provide strategic advice, the broker can remain involved in any ongoing work, as much or as little as they wish.

Our fee structure is discussed at the outset to ensure transparency and flexibility and is based on the complexity of the work involved and the needs of the client, and is proportionate to the claim.

Disputes

Disputes can occur for a wide variety of reasons, depending on the industry and the potential for exposure to the specific risks related to it. In the construction industry, for example, we regularly see disputes with insurers over whether allegations should be understood as involving workmanship or design. In professional indemnity policies, companies often fail to notify their insurer of a possible claim because they think a claim is unlikely to materialise or that, if it did arise, it could be successfully defended and therefore the insurer didn't need to be told.

There are other common themes that often lead to a dispute over the validity of a claim against a company's insurance policy.

Common areas leading to disputes

- Misunderstandings as to what constitutes a notifiable "circumstance" under liability policies
- A failure to appreciate the obligations on proposers for insurance to disclose all material facts
- Claims against policyholders which encompass a broad range of allegations and which fall across various types of policies, leading to confusion as to which policy should respond
- Gaps in cover between policy years

Common points used by insurers to decline claims

- Late notification
- Breach of conditions precedent
- Scope of cover disputes
- Misrepresentation or non-disclosure

Of particular note currently is professional indemnity insurers' approach to the significant exposure experienced by the financial services sector regarding claims arising out of unregulated collective investment schemes, other complex investments and money lost generally in the global crash of 2008. There has been a notable failure to apply consistent standards as to what constitutes a notifiable "circumstance" in this context.

We have successfully resolved numerous coverage disputes involving IFAs and their professional indemnity insurers. This usually involves arguing the merits of the dispute with insurers whilst simultaneously persuading claimants against the IFA to forbear pursuing their claims, or enforcing their FOS awards, in order to allow a commercial settlement to be achieved.

We have obtained millions of pounds from insurers, distributed this to the underlying claimants, and saved a number of businesses from collapse.

Uninsured defence work

We defend policyholders when they face claims by third parties which are related to their insurance claims. We can provide guidance on how best to resolve these claims alongside the insurance claims, to help reduce the policyholder's overall exposure.

Specialist expertise

The firm comprises three main practice areas - Construction & Technology, Financial & Commercial and Professions - each of them Partner-led by skilled lawyers with a reputation for innovation and excellent client care.

We have experience in all commercial risks insured into the London market (with the exception of pure marine and aviation), with particular expertise in:

- Accident and Health
- Business Interruption
- Cargo
- Contingency
- Contractors All Risks
- Cyber
- Directors and Officers
- Employers' Liability
- Kidnap and Ransom
- Trade Credit and Political

Rob Fink has "a very good sense of how to get a very good result for a client at the least possible risk."

"Very good commercial acumen and a very good understanding of insurers' attitudes to claims."

Chambers 2016

"Strong expertise in acting for policyholders."

Legal 500

- Professional Indemnity
- Property Damage
- Public Liability
- Reinsurance
- Trustee Liability
- Warranty and Indemnity

For more information and advice on any of our services for commercial policyholders and their brokers or to arrange an appointment, please call 020 3058 3070 or visit www.fenchurchlaw.co.uk

Fenchurch Law Ltd
40 Lime Street
London EC3M 7AW

T 020 3058 3070
F 020 3058 3071
E info@fenchurchlaw.co.uk

www.fenchurchlaw.co.uk